



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Funding of the Judiciary

Preparatory work, questionnaire
and replies

Annex II to the ENCJ Report 2015-2016



Co-funded by the Justice Programme of the European Union

PRELIMINARY INFORMATION	15
DENMARK	15
GERMANY.....	15
SPAIN.....	16
1.COMPONENTS OF THE BUDGET FINANCING THE JUDICIARY	17
1.1.What are the components of this budget?	17
ALBANIA	17
BELGIUM	17
BULGARIA.....	17
CROATIA	18
DENMARK	18
ENGLAND AND WALES.....	18
ESTONIA.....	19
FRANCE	19
GERMANY.....	19
HUNGARY	20
IRELAND.....	20
ITALY	20
LITHUANIA	21
MONTENEGRO	22
THE NETHERLANDS.....	22
NORWAY	22
NORTHERN IRELAND	22
POLAND	23
PORTUGAL.....	24
ROMANIA.....	24
SERBIA.....	24
REPUBLIC OF SLOVAKIA.....	24
SLOVENIA	25
SPAIN	25
1.2Does it include specific matters such as penitentiary administration?	27
ALBANIA	27
BELGIUM	27
BULGARIA.....	27
CROATIA	27
ENGLAND AND WALES.....	27
ESTONIA.....	27
GERMANY.....	27
HUNGARY	28
IRELAND.....	28
ITALY	28
LITHUANIA	28
MONTENEGRO	28
THE NETHERLANDS.....	28
NORWAY	28
NORTHERN IRELAND	28
POLAND	29
PORTUGAL.....	29
ROMANIA.....	29
SERBIA.....	29
REPUBLIC OF SLOVAKIA.....	29
SLOVENIA	29
SPAIN	29

1.3 Does it include Court security? 31

ALBANIA	31
BELGIUM	31
CROATIA	31
DENMARK	31
ENGLAND AND WALES.....	31
ESTONIA.....	31
FRANCE	32
GERMANY.....	32
HUNGARY	32
IRELAND.....	32
ITALY	32
LITHUANIA	32
MONTENEGRO	33
THE NETHERLANDS.....	33
NORWAY	33
NOTHERN IRELAND	33
POLAND	33
PORTUGAL.....	34
ROMANIA.....	34
SERBIA.....	34
REPUBLIC OF SLOVAKIA.....	34
SLOVENIA	34
SPAIN	34

1.4 Is there a specific budget for judges or does it also include prosecutors ? 35

ALBANIA	35
BELGIUM	35
CROATIA	35
DENMARK	35
ENGLAND AND WALES.....	35
ESTONIA.....	35
FRANCE	35
GERMANY.....	36
HUNGARY	36
IRELAND.....	36
ITALY	36
LITHUANIA	36
MONTENEGRO	36
THE NETHERLANDS.....	36
NORWAY	36
NOTHERN IRELAND	36
POLAND	37
PORTUGAL.....	37
ROMANIA.....	37
SERBIA.....	37
REPUBLIC OF SLOVAKIA.....	37
SLOVENIA	37
SPAIN	37

2. BUDGETARY PROCESS 38

2.1. What is the process by which the budget is funded?..... 38

ALBANIA	38
CROATIA	38
DENMARK	38

LITHUANIA	39
PORTUGAL.....	39
<u>2.1.1. Who draws up the budget?</u>	<u>40</u>
BELGIUM	40
CROATIA	40
ENGLAND AND WALES.....	40
ESTONIA.....	40
FRANCE	40
GERMANY.....	40
HUNGARY	40
IRELAND.....	41
LITHUANIA	41
MONTENEGRO	41
THE NETHERLANDS.....	41
NORWAY	41
NORTHERN IRELAND	42
POLAND	42
ROMANIA	42
SERBIA.....	42
REPUBLIC OF SLOVAKIA.....	42
SPAIN	43
<u>2.1.2. Please describe the stages through which the negotiation moves?</u>	<u>44</u>
BELGIUM	44
CROATIA	44
ENGLAND AND WALES.....	44
ESTONIA.....	45
FRANCE	45
GERMANY.....	45
HUNGARY	46
IRELAND.....	47
LITHUANIA	47
MONTENEGRO	47
THE NETHERLANDS.....	47
NORWAY	48
NORTHERN IRELAND	48
PORTUGAL.....	48
ROMANIA	48
SERBIA.....	48
REPUBLIC OF SLOVAKIA.....	48
SPAIN	49
<u>2.1.3. To whom is the budget submitted?</u>	<u>50</u>
BELGIUM	50
CROATIA	50
ENGLAND AND WALES.....	50
ESTONIA.....	50
FRANCE	50
GERMANY.....	50
HUNGARY	50
LITHUANIA	50
MONTENEGRO	50
THE NETHERLANDS.....	51
NORWAY	51
NORTHERN IRELAND	51

POLAND	51
PORTUGAL.....	52
ROMANIA.....	52
SERBIA.....	52
REPUBLIC OF SLOVAKIA.....	52
SPAIN	52
2.1.4. Who approves the budget?	53
BELGIUM	53
BULGARIA.....	53
CROATIA	53
ENGLAND AND WALES.....	53
ESTONIA.....	53
FRANCE	53
GERMANY.....	53
HUNGARY	53
IRELAND.....	53
ITALY	54
LITHUANIA	54
MONTENEGRO	54
THE NETHERLANDS.....	54
NORWAY	54
NOTHERN IRELAND	54
POLAND	55
PORTUGAL.....	55
ROMANIA.....	55
SERBIA.....	55
REPUBLIC OF SLOVAKIA.....	55
SPAIN	55
2.1.5. Does the Judiciary participate in the preparation of the budgets of local courts? If so, what is their role?	56
BELGIUM	56
BULGARIA.....	56
CROATIA	56
DENMARK	56
ENGLAND AND WALES.....	56
ESTONIA.....	56
FRANCE	57
GERMANY.....	57
HUNGARY	57
IRELAND.....	57
ITALY	57
LITHUANIA	57
MONTENEGRO	58
THE NETHERLANDS.....	58
NORWAY	58
NOTHERN IRELAND	58
POLAND	58
PORTUGAL.....	59
ROMANIA.....	59
SERBIA.....	59
REPUBLIC OF SLOVAKIA.....	59
SPAIN	59

2.1.6. What is the role of the Council of Ministers or the Minister of Finance in the preparation of the court budget? Is the budget drawn up independently by the Minister of Justice or in collaboration with the National Council for the Judiciary or another body 61

ALBANIA	61
BELGIUM	61
DENMARK	61
ENGLAND AND WALES.....	61
ESTONIA.....	61
FRANCE	62
GERMANY.....	62
HUNGARY	63
IRELAND.....	63
ITALY	63
LITHUANIA	63
MONTENEGRO	63
THE NETHERLANDS.....	63
NORWAY	64
NOTHERN IRELAND	64
POLAND	64
PORTUGAL.....	64
ROMANIA.....	64
SERBIA.....	64
REPUBLIC OF SLOVAKIA.....	65
SPAIN	65

2.1.7. Is the Council of ministers or the Minister of finance empowered independently to introduce changes to the draft of the budget accepted by those bodies or are such changes introduced by Parliament only? 66

ALBANIA	66
BELGIUM	66
CROATIA	66
DENMARK	66
ENGLAND AND WALES.....	66
ESTONIA.....	66
FRANCE	67
GERMANY.....	67
HUNGARY	67
IRELAND.....	67
ITALY	67
LITHUANIA	67
MONTENEGRO	67
THE NETHERLANDS.....	68
NORWAY	68
NOTHERN IRELAND	68
POLAND	68
PORTUGAL.....	68
ROMANIA.....	68
SERBIA.....	68
REPUBLIC OF SLOVAKIA.....	69
SPAIN	69

2.1.8. What is the role of Parliament in the budgetary process for the judiciary? 70

ALBANIA	70
BELGIUM	70
CROATIA	70

DENMARK	70
ENGLAND AND WALES.....	70
ESTONIA.....	70
FRANCE	71
GERMANY.....	71
HUNGARY	71
IRELAND.....	71
ITALY	71
LITHUANIA	71
MONTENEGRO	71
NORWAY	72
NOTHERN IRELAND	72
POLAND	72
PORTUGAL.....	72
ROMANIA.....	72
SERBIA.....	72
REPUBLIC OF SLOVAKIA.....	72
SLOVENIA	72
SPAIN	75

2.2 Is there an amount or percentage of the budget guaranteed for the Judiciary (if so, is it by law or by practice?) 75

ALBANIA	75
BELGIUM	75
BULGARIA.....	75
CROATIA	75
DENMARK	75
ENGLAND AND WALES.....	76
ESTONIA.....	76
FRANCE	76
GERMANY.....	76
HUNGARY	76
IRELAND.....	76
ITALY	76
LITHUANIA	76
MONTENEGRO	77
THE NETHERLANDS.....	77
NORWAY	77
NOTHERN IRELAND	77
POLAND	77
PORTUGAL.....	77
ROMANIA.....	77
SERBIA.....	78
SLOVENIA	78
REPUBLIC OF SLOVAKIA.....	78
SPAIN	78

2.3. Who sets the salary of judges and by what process? Are judges' salaries guaranteed? If so, how? 79

ALBANIA	79
BELGIUM	79
BULGARIA.....	79
CROATIA	79
DENMARK	79
ENGLAND AND WALES.....	80

ESTONIA.....	80
FRANCE	80
GERMANY.....	80
HUNGARY	81
IRELAND.....	81
ITALY	81
LITHUANIA	81
MONTENEGRO	82
THE NETHERLANDS.....	83
NORWAY	83
NORTHERN IRELAND	83
POLAND	83
PORTUGAL.....	84
ROMANIA.....	84
SERBIA.....	84
SLOVAKIA	85
SLOVENIA	85
SPAIN	85

2.4. Who provides funds for the Judiciary? Do they include court fees? How are these fees evaluated? 86

ALBANIA	86
BELGIUM	86
BULGARIA.....	86
CROATIA	86
DENMARK	86
ENGLAND AND WALES.....	86
ESTONIA.....	87
FRANCE	87
GERMANY.....	87
HUNGARY	87
IRELAND.....	87
ITALY	87
LITHUANIA	88
MONTENEGRO	88
THE NETHERLANDS.....	88
NORWAY	88
NORTHERN IRELAND	88
POLAND	88
PORTUGAL.....	89
ROMANIA.....	89
SERBIA.....	89
SLOVAKIA	89
SLOVENIA	89
SPAIN	90

3.Management of the allocated budget or Administration of the agreed budget 91

3.1. Who decides on this administration? (Ministry, high Council, courts?) 91

ALBANIA	91
BELGIUM	91
BULGARIA.....	91
CROATIA	91
DENMARK	91
ENGLAND AND WALES.....	91
ESTONIA.....	92

FRANCE	92
GERMANY.....	92
HUNGARY.....	92
IRELAND.....	93
ITALY	93
LITHUANIA	93
MONTENEGRO	93
THE NETHERLANDS.....	93
NORWAY	94
NORTHERN IRELAND.....	94
POLAND	94
PORTUGAL.....	94
ROMANIA.....	95
SERBIA.....	95
REPUBLIC OF SLOVAKIA.....	95
SLOVENIA	95
SPAIN	95
3.2. How do you allocate funds?	97
ALBANIA	97
BELGIUM	97
BULGARIA.....	97
CROATIA	97
DENMARK	97
ENGLAND AND WALES.....	97
ESTONIA.....	98
FRANCE	98
GERMANY.....	98
HUNGARY	98
IRELAND.....	98
ITALY	98
LITHUANIA	98
MONTENEGRO	99
THE NETHERLANDS.....	99
NORWAY	99
NORTHERN IRELAND.....	99
POLAND	99
PORTUGAL.....	99
ROMANIA.....	100
SERBIA.....	100
REPUBLIC OF SLOVAKIA.....	100
SLOVENIA	100
SPAIN	100
3.3. What are the criteria for allocating funds?	101
ALBANIA	101
BELGIUM	101
BULGARIA.....	101
CROATIA	101
DENMARK	101
ENGLAND AND WALES.....	102
ESTONIA.....	102
FRANCE	102
GERMANY.....	102
HUNGARY	102
IRELAND.....	103

ITALY	103
LITHUANIA	103
MONTENEGRO	103
THE NETHERLANDS.....	104
NORWAY	104
NORTHERN IRELAND	104
POLAND	104
PORTUGAL.....	105
ROMANIA.....	105
SERBIA.....	105
REPUBLIC OF SLOVAKIA.....	105
SLOVENIA	105
SPAIN	105
3.4. Who sets these criteria? Is the judiciary involved on such issues? If so, how?	107
ALBANIA	107
BELGIUM	107
BULGARIA.....	107
CROATIA	107
DENMARK	107
ENGLAND AND WALES.....	107
ESTONIA.....	107
FRANCE	108
GERMANY.....	108
HUNGARY	108
IRELAND.....	108
ITALY	108
LITHUANIA	108
MONTENEGRO	108
THE NETHERLANDS.....	108
NORWAY	109
NORTHERN IRELAND	109
POLAND	109
PORTUGAL.....	109
ROMANIA.....	110
SERBIA.....	110
REPUBLIC OF SLOVAKIA.....	110
SLOVENIA	110
SPAIN	111
3.5. Which criteria would you consider are most important?.....	112
ALBANIA	112
BELGIUM	112
BULGARIA.....	112
CROATIA	112
DENMARK	112
ENGLAND AND WALES.....	112
ESTONIA.....	112
FRANCE	113
GERMANY.....	113
HUNGARY	113
IRELAND.....	113
ITALY	113
LITHUANIA	113
MONTENEGRO	113
THE NETHERLANDS.....	114

NORWAY	114
NORTHERN IRELAND	114
POLAND	114
PORTUGAL.....	114
ROMANIA.....	114
SERBIA.....	114
REPUBLIC OF SLOVAKIA.....	115
SLOVENIA	115
SPAIN	115

3.6.What kind of problems have you experienced with misuse (if any) of these criteria? ..116

ALBANIA	116
BELGIUM	116
CROATIA	116
DENMARK	116
ENGLAND AND WALES.....	116
ESTONIA.....	116
FRANCE	116
GERMANY.....	117
HUNGARY	117
IRELAND.....	117
ITALY	117
LITHUANIA	117
MONTENEGRO	117
THE NETHERLANDS.....	117
NORWAY	118
NORTHERN IRELAND	118
POLAND	118
PORTUGAL.....	118
ROMANIA.....	118
SERBIA.....	118
REPUBLIC OF SLOVAKIA.....	118
SLOVENIA	119
SPAIN	119

3.7. What would you suggest as a good practice when using these criteria (Adapted to specific cases...?) 120

ALBANIA	120
BELGIUM	120
CROATIA	120
DENMARK	120
ENGLAND AND WALES.....	120
ESTONIA.....	120
FRANCE	121
GERMANY.....	121
HUNGARY	121
IRELAND.....	121
ITALY	121
LITHUANIA	121
MONTENEGRO	121
THE NETHERLANDS.....	121
NORWAY	122
NORTHERN IRELAND	122
POLAND	122
PORTUGAL.....	122
ROMANIA.....	122

SERBIA.....	122
REPUBLIC OF SLOVAKIA.....	122
SLOVENIA	123
SPAIN	123
4.CONSEQUENCES OF BUDGETARY CONSTRAINTS	124
4.1. At the national level.....	124
4.1.1.Have budgetary constraints resulted in legal reforms? Have they for instance resulted in development of ADR or in restricted access to an appel?	124
ALBANIA	124
BELGIUM	124
BULGARIA.....	124
CROATIA	124
DENMARK	124
ENGLAND AND WALES.....	125
ESTONIA.....	125
FRANCE	125
GERMANY.....	125
HUNGARY	125
IRELAND.....	126
ITALY	126
LITHUANIA	126
MONTENEGRO	126
THE NETHERLANDS.....	127
NORWAY	127
NORTHERN IRELAND	127
POLAND	127
PORTUGAL.....	127
ROMANIA.....	128
SERBIA.....	128
REPUBLIC OF SLOVAKIA.....	128
SLOVENIA	128
SPAIN	128
4.2. At the court level?	130
4.2.1 Has it resulted in the prioritization of cases?	130
ALBANIA	130
BELGIUM	130
CROATIA	130
DENMARK	130
ENGLAND AND WALES.....	130
ESTONIA.....	130
FRANCE	131
GERMANY.....	131
HUNGARY	131
IRELAND.....	131
ITALY	131
LITHUANIA	131
MONTENEGRO	131
THE NETHERLANDS.....	131
NORWAY	131
NORTHERN IRELAND	132
POLAND	132

PORTUGAL.....	132
ROMANIA.....	132
SERBIA.....	132
REPUBLIC OF SLOVAKIA.....	132
SLOVENIA	132
SPAIN	132

4.2.2. Does it affect judge's work? Choice of IT? Expert's appointment? 134

ALBANIA	134
BELGIUM	134
BULGARIA.....	134
CROATIA	134
DENMARK	134
ENGLAND AND WALES.....	135
ESTONIA.....	135
FRANCE	135
GERMANY.....	135
HUNGARY	135
IRELAND.....	135
ITALY	136
LITHUANIA	136
MONTENEGRO	136
THE NETHERLANDS.....	136
NORWAY	136
NORTHERN IRELAND	136
POLAND	137
PORTUGAL.....	137
ROMANIA.....	137
SERBIA.....	137
REPUBLIC OF SLOVAKIA.....	138
SLOVENIA	138
SPAIN	138

From your involvement in the financing of your courts - whether it be negotiating the budget with your government, allocating the budget to individual courts or whatever - what one suggestion would you wish to make to other members of the network which you personally have considered most useful..... 138

ALBANIA	138
BELGIUM	138
CROATIA	138
DENMARK	138
ENGLAND AND WALES.....	139
ESTONIA.....	139
GERMANY.....	139
HUNGARY	139
IRELAND.....	139
ITALY	140
LITHUANIA	140
MONTENEGRO	140
THE NETHERLANDS.....	140
NORWAY	140
NORTHERN IRELAND	140
POLAND	141
PORTUGAL.....	141
ROMANIA.....	141

SERBIA.....	142
REPUBLIC OF SLOVAKIA.....	142
SLOVENIA	142
SPAIN	142
<u>APPENDIX 1. SCOTLAND.....</u>	<u>143</u>

DENMARK

Every year a Finance Bill, which determines the Danish state's budget for the following year, must be passed. The Finance Act determines how the state's budget is being spent and how much money will go to for example the universities and the Danish judiciary. The budget proposal is introduced by the Government. Negotiations on the Finance Bill constitute one of the most important events during a year of Parliament. The Bill is usually passed by Parliament in December. If it becomes necessary to amend the appropriations established in the Finance Act during the year, this can be done with the help of what are known as legal documents and supporting documents. They must be approved by the Finance Committee and about 200 applications are received from Ministers each year.

The Danish Judiciary is financed under paragraph 11 in the Finance Act. Paragraph 11 concerns the Ministry of Justice.

GERMANY

While assessing the German responses, please, note the following :

The Federal Republic of Germany, is a federal parliamentary republic comprising 16 constituent States (Länder). As a federal state, the Federal Republic of Germany is characterized by decentralized structures. Each Land possesses its own parliament. The Constitution, known as the Grundgesetz (hereafter referred to as the Basic Law), divides legislative powers between the Federation and the Länder.

The **Basic Law** lays down certain fundamental requirements of the budget process, and prescribes the fiscal relationship between the federation (i.e. the federal level of government) and the Länder which enjoy a **high level of autonomy**.

Some key aspects of the national budgeting system as set out in the Basic Law are:

- The federation and the Länder are **autonomous** on managing their budgets, which should in principle **be balanced**, and they must work jointly to fulfil EU-related obligations as regards fiscal discipline;
- Each level of government (federal and Land) should in principle finance its own expenditure (dépenses), although there are specified grounds upon which financial aid may pass from the federal to Land level;
- Within the federal government, **each ministry is independently responsible for the conduct of its own affairs**;
- Principles are laid down for the raising of specific forms of taxation, and the apportionment (répartition) of taxation, at federal and Land levels;
- The “debt brake” (frein à l’endettement) rule to strengthen and operationalise the balanced- budget principle is also included (since 2009) in the Basic Law.

It is virtually impossible to conduct a comparative analysis of budgets for judicial systems of the federal states in Germany due to **differing budget structures in the federal states**. There are considerable differences in the provisions for entering items into the budget in statements of revenue and expenditure for each institution or section, as well as in the General Financial Management budget, particularly in the case of building measures.

SPAIN

Spain is divided in 17 decentralized territories denominated Comunidades Autónomas (CCAA).

The decentralized territory possesses its own parliament, **approves their own budget** and has a high level of **autonomy**

Some of these decentralized territories (CCAA) are partially responsible for the judicial system.

1. COMPONENTS OF THE BUDGET FINANCING THE JUDICIARY

1.1. What are the components of this budget?

ALBANIA

The budget for the judiciary includes **3 Institutions**:

- The High Council of Justice which drafts and manages its own budget;
- the Supreme Court which drafts and manages its own budget also;
- and Office for the Administration of the Judicial Budget which drafts and manages the budget for the first instance and appeal courts.

The annual budget allocated to these three institutions consists of **3 main components**:

1. Personnel expenses; which includes the budget for salaries and social security for judges and administrative staff in courts.
1. Operating Expenses; including current costs for materials and services needed for daily activities in courts such as paper, toner, stationery, internet, maintenance, costs for buildings security, transport costs, attorneys and experts fees which are called from the court etc.
1. Capital Expenditures - which includes: funds for investments in courts infrastructure, funds for purchase of equipment, furniture, electronics, security elements, vehicles etc.

BELGIUM

- Judicial organization (judges + prosecutors),
 - Penitentiary administration,
- “Houses of justice” (local centres for information and social assistance in the judicial field).

BULGARIA

The budget of the judiciary consists of the following components:

- Revenues, including revenues from court fees
- Subsidies from the central budget
- Expenses, including current expenses, capital expenditure and a reserve for unforeseen and urgent expenses.

The Supreme Judicial Council (SJC) is the first-level spending unit on the judiciary budget, second-level spending units on the judiciary budget are the Supreme Court of Cassation, the Supreme Administrative court, the Prosecutor's office of the Republic of Bulgaria, the National Institute of Justice, the Inspectorate to the SJC and the courts of the Republic of Bulgaria.

CROATIA

The budget of the courts includes expenses for the employees, material and financial expenses and expenses for the acquisition of nonfinancial assets.

DENMARK

The Judiciary is funded by the state, and the budget is decided upon by the Government and Parliament in the Finance Act, that lays out the budget for the Judiciary (the courts and the Court Administration).

Paragraph 11 in the Finance Act concerns the Ministry of Justice. The Court Administration is an independent institution but still the budget of the courts belong under the Ministry of Justice and the Ministry of Finance. The Minister of Justice does however not have instructive power and cannot change decisions made by the Danish Court Administration as the Court Administration refer to an independent board.

As mentioned paragraph 11 concerns the Minister of Justice. Sub paragraph 41- 43 concerns the Judicial System.

Following posts are covered :

→ Expenses :

The Court Administration,

The Courts (Salary, rent, cleaning, security and other operating costs as well as expenditures covering IT, building, training ect.),

The Appeals Permission Board,

The Land Registration Court,

Other case related expenditures (mainly salary to lay judges and witnesses fees),

Legal Aid,

Compensations.

→ Revenue :

Court fees (Court fees and fees regarding inheritance are collected by the courts. The fees regarding land registration is collected by the Danish Customs and Tax Administration. None of the fees are an integrated part of the Courts budget. The Judiciary is financed by the state budget alone. The total amount of court fees have no impact on the budget.)

ENGLAND AND WALES

The administration of the courts and tribunals in England and Wales is in the hands of Her Majesty's Courts and Tribunals Service ("HMCTS"). The annual budget for HMCTS covers : the cost of the staff of HMCTS and their pension costs; judicial salaries and pension costs; the court and tribunal estate and sundry other costs such as IT expenditure but not the cost of the prison service ("NOMS"), the prosecutorial service (the Crown Prosecution Service — CPS) or of the police.

ESTONIA

In Estonia Ministry of Justice is responsible for the budget of 1st and 2nd instance courts. It includes salaries of judges (1st and 2nd instance judges) and other court staff, judges' pensions, judicial expenses (expertise, interpretation etc), budget allocated to training of court staff and administration costs. IT-cost are not included. Supreme Court has its own budget. Budget allocated to training of all the judges is in their budget.

FRANCE

The Governmental budget is divided into several assignments. Within each assignment, you may have different programs. For the Justice assignment, there is, among others, one program for the Judiciary (Program 166) and one for the Council for the Judiciary (Program 335).

The program for the Judiciary includes civil and criminal proceedings, functioning of courts and the Court of cassation, training of judges and prosecutors.

GERMANY

The budgets for the Ministries of Justice, which are drawn up by each Land independently, include all expenses for the judiciary of the Land, including the budget for the ministry of justice itself.

The budget passed by Parliament contains an item „judiciary“. The following elements are included: Court, Legal aid, Prison system, Probation services, Constitutional Court, Judicial management body, enforcement services, judicial protection of juveniles, Notariat, Forensic services. Slight variations appear from Land to Land.

Article 92 of the Basic Law establishes the courts and states that "the judicial power shall be vested in the judges; it shall be exercised by the Federal Constitutional Court, by the federal courts provided for in this Basic Law, and by the courts of the Länder." Due to the federal order of the Republic, jurisdiction is exercised by federal courts and by the courts of the 16 Länder. With respect to administrative supervision and budgetary control, federal courts are supervised by the Federal Government, Länder courts by the respective Land.

The federal budget consists of the departmental budgets and the aggregate budget. The departmental budgets shall contain the revenues, expenditures and commitment appropriations of a single branch of the administration or specific classes of revenues, expenditures and commitment appropriations. The budget for Ministry of Justice and Consumer Protection at federal level includes expenses for the judiciary of the Federation. This includes among other things the budget of the Federal Ministry of Justice and Consumer Protection, the Federal Court of Justice (Bundesgerichtshof), the Public Prosecutor General of the Federal Court of Justice (Generalbundesanwalt, Federal Administrative Court (Bundesverwaltungsgericht) and the Federal

Finance Court (Bundesfinanzhof). The following elements, for instance, are included in the budget of the Federal Courts: staff expenditure, expenditure on buildings and equipment and operating costs et cetera). The funds are earmarked.

The budgets for the Ministries of Justice of the Länder, which are drawn up by each Land independently, include all expenses for the judiciary of the Land. The funds are earmarked.

§ 6a Act on the Principles of federation and Länder Budgetary Law (Gesetz über die Grundsätze des Haushaltsrechts des Bundes und der Länder, HGrG), which is applicable to the budget of the Federation and the Länder, stipulates that revenues, expenditures and commitment appropriations may be budgeted for within the framework of a system where responsibility has been decentralised to an organisational unit. In this event, the financial responsibility shall be transferred, on the basis of the budget authorisation, to the organisational units having technical and operational responsibility. The condition shall be that there are suitable information and control instruments, which ensure, in particular, that the volume of expenditure available in each case is not exceeded. The nature and extent of the performance to be delivered shall be set out by a law or in the budget. In these cases arrangements on earmarking, carry-over and virement for the relevant organisational unit should be set out by a law or the budget, § 6a Act on the Principles of federation and Länder Budgetary Law.

HUNGARY

The budget components (financing lines) of the Courts are included in The Budget Regulations Act. The budget basically consists of 3 blocks, Personnel costs, material expenses and investment.

The VI. chapter of the Budget Regulations Act contains the chapter of Courts, which has three titles.

The title Courts contains the budget of the NOJ, the Regional Courts and the Courts of appeal altogether.

The Curia has a separate chapter, which contains its own budget.

The chapter-managed appropriations contains the components of which target themes are financed, and those items which are handed over to the institutions by the NOJ, as the chapter governing organisation for financing headline targets. Typically, these are linked to real estate investments which concern each institutions, but it is supervised or conducted by the NOJ, or these could be other investments which concern the complete judicial system.

IRELAND

Judicial Salaries are paid directly from Central Government funds.

Financing for the judiciary including court administration, staffing, accommodation, facilities and other court supports e.g. interpretation, judicial researchers etc. is met from the Courts Service Budget.

The Courts Service is an independent agency established by statute to support the judiciary and administer the courts.

ITALY

The items of expenditure for Justice indicated in the budget are as follows:

prison administration, civil and criminal justice, juvenile justice; in particular salaries to judges and staff, payment fees and utilities, safety at work, maintenance and restructuring of buildings, legal costs, transportation, computer equipment, law libraries, buying furniture, expenses for wiretaps.

LITHUANIA

The components of the (overall) budget financing the Judiciary are as follows:

- **Budgets of the Courts** (allocations for salaries of judges and court personnel, allocations for maintenance of court buildings, court operating costs, partly allocations for training, partly allocations for expenses related to administration of justice (translation and some expertise expenses, reimbursement of expenses for witnesses, etc.)
- **Budget of the National Courts Administration (NCA)** (allocations for maintenance of the NCA and the institutions of self-governance of courts (the Judicial Council, the Judicial Ethics and Discipline Commission, the Judicial Court of Honour, the Judicial Examination Commission for Candidates to the Judicial Office, the Selection Commission, the Permanent Commission for the Evaluation of Judges' Activities); allocations for training of judges and maintaining the Judicial Training Centre; allocations for investment projects (for court buildings and technologies), judges pensions. Moreover, the NCA administers the programme of **Centralized maintenance of courts**, which consists of allocations for the needs of courts financed in a centralised manner through the budget of the National Courts Administration. The Programme funds under the approved programme estimate shall be used:
 - to provide the courts with the goods, services and property of the same or similar type that are purchased in a centralised manner;
 - to finance business trips related to the activities of the European Network of Councils for the Judiciary and other international cooperation of self-governance institutions of the judiciary;
 - to finance international training and study visits of judges;
 - to finance membership fees of self-governance institutions of the judiciary in international organisations;
 - for the representation and communication needs;
 - for repairs of the buildings, premises and engineering systems of the courts;
 - for holding general meetings of judges;
 - for centralised payment for the court-appointed forensic psychiatric and psychological examinations in non-contentious civil proceedings regarding the recognition of legal incapacity or partial legal capacity of a natural person and the recognition of a minor as legally capable (emancipated);
 - for solving unforeseen critical problems of the courts, elimination of failures in the equipment necessary, liquidation of accidents;
 - to finance other programme measures and/or parts thereof as stated in the programme estimate.
 - The funds of the **Centralized maintenance of courts** shall be distributed taking into account the needs indicated in the proposals of the courts and self-governance institutions of the judiciary as well as specified in legal acts. The programme estimate, co-ordinated with the Judicial Council, shall be approved by the Director of the Administration.

MONTENEGRO

Please note that the judiciary system in Montenegro is managed respectively by the Judicial Council and the Prosecutorial Council. Accordingly, within the judiciary section of the budget there are two separate budget sub-sections, namely for the courts and the prosecution. The Justice Ministry, the Constitutional Court, and the Penitentiary Institution have separate budget sections.

In general, the judiciary budget components are related to conventional expenditures: personnel (judges and court administration), operations and maintenance, and capital investments.

Recent legislative changes have made the bodies for adjudicating traffic and other offences (misdemeanor courts) part of the court system. These misdemeanor courts will thus become the separate budget sub-section within the section of the budget for judiciary.

THE NETHERLANDS

The budget is meant for all costs (housing, salaries etc.). These components are not earmarked, the judiciary, council and local courts decide how to spend the budget.

NORWAY

The budget for the judiciary includes the Supreme Court, Courts of Appel, the District Court, the Land Consolidation Court and the National Courts Administration of Norway (NCA).

The budget for the Supreme Court is determined and managed by themselves.

The annual budget allocated to these three institutions (Courts of Appel, the District Court and the Land Consolidation Court) consists of three main components:

- Wages (not pension costs),
- Rent (we rent all court buildings),
- Other costs such as IT, competence training, travel cost, paper etc.

The budget does not include expenses tied to experts, lay judges or interpreters. These expenses are covered over other budgets, not controlled by the NCA. Income from court fees goes to the government.

NORTHERN IRELAND

The components of the budget are the staff of the Northern Ireland Courts and Tribunals Service ('NICTS'); judicial salaries and pension costs; the court and tribunal estate; sundry other costs such as IT expenditure, judicial travel, fees for deputy judges, Judicial Studies Board.

These budget areas form part of the overall NICTS budget, within the Department of Justice (DoJ), which receives funding from the Northern Ireland Executive (the Executive).

At first it shall be noted that the judiciary budget is divided into parts possessing various disposers. The Supreme Administrative Court disposes with the budget of all administrative courts (Voivodship [=Regional] Administrative Courts and the Supreme Administrative Court). The following courts have their separate part of the budget: the Supreme Court, The Constitutional Tribunal, and the National Council of the Judiciary of Poland. The budget of military courts depends on the Minister of National Defence, while part of the budget referring to Common courts is disposed of by the Minister of Justice.

In case of Common courts, this part of the budget is divided into 11 divisions equivalent to the competence area of every appeal.

From the substantial point of view, one can distinguish several elements in the budget resulting from tasks realised by the courts within the so-called task budget. Ca. 2/3 of the expenses is allocated for the **the case-law activities** - tasks related to the solution of court cases, legal protection, and the execution of court judgements. The biggest part of them is constituted on expenses to ensure professional judges. The second biggest part is constituted of funds to secure the personnel supporting judges in the realisation of tasks related to the process of the justice execution. They include remunerations of the judges' assistants and court officials employed in substantial divisions of Common courts. Besides that there are also secured funds to realise tasks in the field of the legal protection (remunerations of court referendaries).

Apart from the above mentioned parts, the budget draft also assigns funds directly connected with costs of conducting court proceedings, including among others costs of not paid legal assistance granted ex officio, costs of deliveries of demands and court writs, due amounts for the issued opinions, remunerations of experts, financial compensations for lay judges for the execution of their actions at court, returns of costs of daily allowances, travels, accommodation for lay judges, experts, and witnesses, costs of the execution and court bailiff seizures, etc. Besides, the budget also includes means for the execution of court judgements by the probationary court services, compensations of the State Treasury disbursed by courts, as well as emoluments for retired judges and family benefits.

The courts' budget also covers **auxiliary tasks**. First of all, it refers to the assurance of conditions and infrastructure necessary to realise substantial tasks of the judiciary institutions. This group of expenses includes funds to maintain court real estates, ensure the organisational and administrative servicing of the courts, as well as maintain and develop the IT infrastructure. The above listed categories, apart from remunerations of court clerks employed in court divisions and realising auxiliary tasks (finances, HR, administration, logistics, etc.), also contain financial means for purchasing outsourced services, costs of the utilities, purchases of materials and equipment, public and legal liabilities, as well as other expenses related to the current maintenance and functioning of organisational units of the courts. The aforementioned group of expenses comprises an important category of property (investment) expenses, a great majority of which covers expenses allocated to increase standards of the courts' functioning, especially by means of a limitation of lacks of utility area in court buildings.

Due to the paramount importance for the improvement of the courts' functioning, a very important item in the budget plan covers expenses related to projects in the field of the computerisation of the judiciary institutions. They are both within expenses of an investment character, as well as expenditures related to the maintenance and development of the IT infrastructure in the courts - with the consideration of both asset expenses and current ones.

PORTUGAL

The components of the (overall) judiciary budget are:

- Courts (salaries, buildings, new technologies, etc.),
- Public prosecution services;
- Forensic Services;
- Judicial protection of juveniles;
- Functioning of the Ministry of Justice;
- Criminal investigation;
- Penitentiary and resocialization;
- Education and judicial training.

ROMANIA

The components of the budget for the Judiciary in Romania are the following : the courts' budget, the budget of the Public Ministry (PM), the budget of the High Court of Cassation and Justice (HCCJ) and the budget of the Superior Council of Magistracy (SCM).

For the budget of the courts the minister of justice is the main spending authority, the presidents of the Courts of appeal (15 courts of appeal throughout the country) are secondary spending authorities and the presidents of the Tribunals (41 tribunals) are third spending authorities for their courts and for the first instance courts that are within their jurisdiction.

For the budget of prosecutors' offices, the Prosecutor General is the main spending authority, the heads of the Prosecution offices by the Courts of appeal (15 prosecution offices by the courts of appeal throughout the country) are secondary spending authorities and the heads of the prosecution offices by the Tribunals (41) are third spending authorities for their prosecution offices and for those that are within their jurisdiction.

The Superior Council of Magistracy is the main spending authority for their budget, but also for the budget of the National Institute of Magistracy and Judicial Inspection.

SERBIA

The budget of the judiciary consists of the budgets for courts and prosecutors.

REPUBLIC OF SLOVAKIA

The budget of courts is composed of incomes and expenditures :

INCOMES

Draft budget of income consists mainly of income from the costs of criminal proceedings, monetary penalties, compensation for legal services and the costs sent as advance receipts from the state budget (witness allowance, expert and interpreter fees) paid in the next financial year, deposits, rent, etc.

EXPENDITURES

Current expenditures

- Salaries, service incomes and others personal salary adjustments (court personnel and judges),
- Premiums and contributions to insurance companies,
- Goods and services (basic common operating activities of the courts),
- Current transfers (supplementary sickness benefits, benefits for family member care etc.).

Capital expenditures

Composed of expenditures for procurement of corporeal and incorporeal property, including expenses related to the procurement of this property pursuant to the law on Income Tax.

Courts use these appropriations mainly for the acquisition of new buildings, computers, the renewal of the vehicle fleet, for the purchase of operating equipment; machinery, devices, etc.

SLOVENIA

According to the Courts Act the funds for the salaries of judges and court staff and for the operational costs of courts, as well as funds for the computerization of courts are provided at the budget user “the Supreme Court of the Republic of Slovenia”, while funds for providing the equipment of the courts and the spatial conditions of courts and provided at the budget user “Ministry, responsible for justice”.

SPAIN

STATE BUDGET

The budget for the ministry of justice includes:

- Personnel expenses. Salaries and social security for all judges, prosecutors and court secretaries. Salaries and social security for ministry staff,
- Operating Expenses. Court administration, staffing, accommodation, facilities in territories without judicial competences transferred. Plus same expenditures for ministry of justice,
- Capital Expenditures. Investments in courts infrastructure, funds for purchase of equipment, furniture, electronics, security elements etc. Plus same expenditures for ministry of justice.

The budget for the General Council for the Judiciary (Separated budget in State Budget) includes :

- Personnel expenses. Members and staff Salaries and social security,
- Operating Expenses. Accommodation and facilities,

- Capital Expenditures. Investments in infrastructure.

The budget for the Constitutional Court (Separated budget in State Budget) includes:

- Personnel expenses. Members and staff Salaries and social security,
- Operating Expenses. Accommodation and facilities,
- Capital Expenditures. Investments in infrastructure.

DECENTRALIZED BUDGETS (CCAA)

The budget for the Departments of Justice in decentralized territories (CCAA) includes in general terms:

- Personnel expenses. Salaries and social security for personnel of the judicial system, staff other than judges, prosecutors and court secretaries,
- Operating Expenses. Court administration, staffing, accommodation and facilities,
- Capital Expenditures. Investments in courts infrastructure, funds for purchase of equipment, furniture, electronics, security elements, etc.

1.2. Does it include specific matters such as penitentiary administration?

ALBANIA

No, the budget for the judiciary doesn't include the budget for the penitentiary administration (The Ministry of Justice is responsible for the administration of the budget of the penitentiary.)

BELGIUM

No.

BULGARIA

It is not relevant to the judiciary budget.

CROATIA

No.

DENMARK

No. The Danish Prison and Probation Service is separately funded under paragraph 11, subparagraph 31.

ENGLAND AND WALES

No.

ESTONIA

No.

FRANCE

No, another specific program is devoted to penitentiary administration (Program 107).

GERMANY

In some Länder (e.g. Berlin) it does, in some it does not.

HUNGARY

There is none, only the budget of the Court system is determined. The president of the NOJ deals with the central administration of courts, and the governing competences of the chapter Courts of the Budget Regulations Act.

IRELAND

Penitentiary administration is not included in the Courts Service budget.

ITALY

Yes it does. As indicated above, it regards staff salaries, as well as all the expenses of the prison administration and the Institutes of custody.

LITHUANIA

No. Penitentiary administration is neither included in the budgets of Courts nor the NCA. There is a special department of the Ministry of Justice for the penitentiary issues.

MONTENEGRO

No.

THE NETHERLANDS

No, the penitentiary administration is the responsibility of the prosecution.

NORWAY

No. The budget for the judiciary doesn't include the budget for the penitentiary administration.

The budget for the penitentiary administration (Norwegian Correctional Service) is the responsibility of the Ministry of Justice.

NORTHERN IRELAND

No.

POLAND

The penitentiary administration constitutes an item in the budget separate from the courts. The Ministry of Justice manages the budget of the Prison Services.

PORTUGAL

There is an agency of the Ministry of Justice for the penitentiary issues.

In Portugal, the penitentiary administration constitutes an item in the budget separate from the courts. It is managed by an agency (*Direção-Geral de Reinserção e Serviços Prisionais*) coordinated by the Ministry of Justice.

ROMANIA

Penitentiary administration is under the coordination of the Ministry of Justice and the budget is part of the MoJ's budget.

SERBIA

The penitentiary administration is not in the budget of the judiciary.

REPUBLIC OF SLOVAKIA

Prison and Court Guards have their own budget separated from the courts, but to the state budget is linked the same way as the budget of the courts, through the Budgetary Chapter – Ministry of Justice of the Slovak Republic.

SLOVENIA

This is provided in the budget of Ministry of Justice.

SPAIN

Penitentiary administration is not included in the budget of the judicial system.

State budget for the penitentiary administration is included in the Ministry of Internal Affairs.

1.3. Does it include Court security?

ALBANIA

The approved budget includes funds for investment for security elements in courts.

This budget includes funds for the security service in the court buildings after official hours and days off (the security service during official hours is performed by the state police). Funds for the reconstruction or construction of different entrances in court buildings realized for main users (judges + administration, the public, the defendant), as an initial element of the security system; a card system entry for the authorized personnel; surveillance cameras to monitor indoor and outdoor areas of courts; metal detectors; handheld metal detector device for gun control.

BELGIUM

No.

BULGARIA

Security of the courts is provided by the Chief Directorate "Security" at the Ministry of Justice.

CROATIA

No.

DENMARK

Yes.

ENGLAND AND WALES

Yes.

ESTONIA

It includes Court security. Court security guards salary is paid by the court. A court security guard is a court official whose duty is to maintain order in the court, serve notices and summons to persons and perform other duties related to the functions of a court security guard determined by the internal rules of the court.

FRANCE

Yes, it does include court security costs.

GERMANY

Yes, if the security is provided by court personnel and not by police officers.

HUNGARY

The security expenses are financed independently by the Curia, the Courts of appeal and the Regional Courts from their own budget.

IRELAND

Court security is a matter for the Irish Police Force (An Garda Síochána). However, the budget does provide for perimeter court security at certain venues which is provided by a private security company.

ITALY

The Stability Law of 2015 (Art. 1, paragraphs 527, 528, 529 and 530, Law of 23 December 2014, n. 190) has ordered that compulsory expenditure necessary for the operation of the courts, including supervision, expenses maintenance and restoration, from September 2015, must be supported by the Ministry of Justice and no longer by the Towns, with some exceptions .

It then has exceeded the system, in force since 1941, which placed the burden paid by Towns to anticipate these expenses, which were then reimbursed by the Ministry.

This law lays down that the Ministry of Justice manages the security expenses based on need, as indicated by the permanent committees that the same law foresees. These committees are set up in every Court of Appeal District and made up of the Chief Executives of the Courts, who are magistrates.

It was added in the law that, in urgent cases, the tasks in security are performed by the General Prosecutor of the Court of Appeal.. In Italian judicial system the General Prosecutor is not a political appointee, but he is a magistrate.

Safety is also guaranteed by the police, the Carabinieri , which depend on the Ministry of Interior.

LITHUANIA

Article 130 of the Law on Courts provides that security (peace and order) in courts shall be ensured by the police and the police which ensure security of courts shall be financed from the state budget allocations for the police. However, as practice shows, there is no separate budget line especially dedicated to ensure security in courts. The lack of financing to the police makes the issue of security in courts problematic. Seeking to deal with this issue, the NCA prepared and implements the project financed from the Norwegian Financial Mechanism, which is dedicated to strengthening security in the courts – during implementation of the project, technical equipment

ensuring security in court buildings will be acquired.

MONTENEGRO

In 2016, the judiciary budget will include court security.

THE NETHERLANDS

Yes. But if police assistance is required, the court is dependent of the police.

NORWAY

The Courts have responsibility for the safety of their employees. The police has the responsibility to consider safety regarding the main proceeding, and if necessary contribute in the hearing. In these matters, the courts and the police cooperates. The costs of police participation is covered through the budget of the police.

NOTHERN IRELAND

Yes.

POLAND

The problem of financing is different depending on the type of the unit in charge of the security and the order maintenance and safety in courts.

The so-called Court Police is responsible for the preservation of order and security in Common and administrative courts, as well as in the Supreme Court. The Services are also responsible for the security in Common units of the Prosecutor's Offices and they are included in the Police force.

The Police pays remunerations to Court Police officials, while costs related to the maintenance and equipment of the Court Police premises located in court buildings or the prosecutor's office are borne by the respective court or prosecutor's office. Convoys of prisoners in detention houses are the task of the Police and the Prison Guards.

Apart from the Court Police there is also a possibility to appoint a specialist armed security formation in the court. The formations are organised by respective Court Presidents, but the establishment of such formations in the Courts is not obligatory. They can have two forms. First of all, the Court President may appoint the so-called Court Guards (WSO) formed by employees employed on a permanent basis in courts. The Court President can also avail of services of a security agency (SA) on the basis of a civil and legal agreement. Security agreements are run by entrepreneurs who have obtained a license to carry out economic activities in the field of personal and property security services and have a firearms license to the bearer.

Both in case of the Court Guards and the security agency, costs of their services are covered fully by the courts and appropriate funds have to be secured in the court budget.

PORTUGAL

The ordinary security, provided by security companies, is included in the budget for the courts. The extraordinary one is provided by police force, a service that depends on the Ministry of Internal Affairs.

ROMANIA

The security of the courts and prosecution offices is provided free of charge by the Minister of Administration and Interior.

SERBIA

The judiciary's budget includes funding for courts security.

REPUBLIC OF SLOVAKIA

Court security is provided by the Prison and Court Guards, so the answer would be same as written above: there is a own budget separated from the courts, but to the state budget is linked through the Budgetary Chapter – Ministry of Justice of the Slovak Republic.

SLOVENIA

Yes, the costs for the Court Security are provided in the budget of the Supreme Court.

SPAIN

Court security is responsibility of the Spanish Ministry of Internal Affairs, decentralized territories (CCAA) with security competences transferred and at certain venues provided by private security companies.

1.4. Is there a specific budget for judges or does it also include prosecutors ?

ALBANIA

The approved budget for the judiciary includes only the budget for the High Council of Justice, Supreme Court, first instance and appeal courts and not that for the prosecution.

BELGIUM

Judicial organization (judges + prosecutors).

CROATIA

There is specific budget for judges and does not include the budget for prosecutors.

DENMARK

The salary for judges is a part of the overall budget for the judiciary. The Prosecutions Service is also under paragraph 11 (Minister of Justice), but the Prosecution Service is funded separately under paragraph 11, subparagraph 23.

ENGLAND AND WALES

The HMCTS budget includes the cost of judicial salaries and pensions. The appointment and training of judges is separately funded by the Ministry of Justice. The cost of the prosecutors (the CPS) is independently funded by Parliament via the Office of the Attorney General.

ESTONIA

There is a specific budget for judges. The number of judges and their salary is provided by law. This is the main criteria when drawing up the budget of Courts.

FRANCE

No, it is the same budget, as in France, judges and prosecutors belong to the same category called “professional magistrates”

GERMANY

The budget for Ministry of Justice and Consumer Protection at federal level includes both judges and prosecutors.

The budgets of the Ministries of Justice at Länder level include judges and prosecutors.

HUNGARY

The Courts and the Prosecutor's Office have separate budget.

IRELAND

There is specific judicial funding for certain judicial support such as training, judicial assistance, etc.

The Courts Service budget does not include funding for prosecutors.

ITALY

The budget includes funding for Judges and prosecutors.

LITHUANIA

Budgets of courts and budgets of prosecutors' offices are completely separated.

MONTENEGRO

Please see above. There is a specific budget for judges which do not include prosecutors.

THE NETHERLANDS

The budget does not include the prosecution.

NORWAY

The budget for the judiciary includes judges, but not prosecutors.

NOTHERN IRELAND

For judges yes but not for prosecutors.

POLAND

The budget for judges is completely separate from the budget of prosecutor offices. The main disposer of the prosecutor offices' budget is the Prosecutor General, while the secondary and tertiary disposers include respectively appeal prosecutors (in reference to the given area of appeal) and circuit prosecutors (in reference to circuit and district prosecutor offices from the area of the given region).

PORTUGAL

There is a specific budget for judges.

ROMANIA

Yes, there is a specific budget for judges and another for prosecutors. The budget for courts /judges is administrated by the Ministry of Justice (MoJ), while the budget for prosecutors' offices is administrated by the PM. (see above).

SERBIA

There is specific budget for judges.

REPUBLIC OF SLOVAKIA

No, judiciary has its own budget separated from the prosecutors.

SLOVENIA

Yes, there is specific budget for judges - budget at the Supreme Court.

SPAIN

There is not a specific budget for judges. The ministry of justice budget includes both judges and prosecutors. Salaries and social security for all judges, prosecutors and court secretaries are centralized in the ministry of justice. It is a State responsibility

2. BUDGETARY PROCESS

2.1. What is the process by which the budget is funded?

ALBANIA

The process is initiated by the Ministry of Finance, which issues guidelines on the drafting of the state budget based on the macroeconomic framework. These guidelines are applicable to all government agencies.

The Office for the administration of the Judicial Budget (ZABGJ), which is an institution initiated by law, for the administration of the courts' budget, instructs courts on the manners and procedures that should be followed for drafting the budget based on the budgetary policies and objectives of the judiciary, adopted by Board of ZABGj. The Board is chaired by the President of the High Court and consists of 9 members (one member of the Supreme Court, two Presidents of courts of appeal, 4 Presidents of courts of first instance and one representative of the Ministry of Justice).

Based on these guidelines, each court shall draft its annual budget and midterm budget (3 years) according to specific needs that it has. The draft budget prepared by the courts is then submitted to ZABGJ. Relevant experts at ZABGJ analyze the draft budget submitted by courts and draft a final budget for the judiciary. Then, the budget is presented to the Board which gives the final approval and then forwards it to the Ministry of Finance. The High Council of Justice and the Supreme Court drafts its own budget based on the guidelines sent out by the Ministry of Finance and submits the drafted budget to the Ministry of Finance for approval and representatives of these institutions are present in the hearing sessions for the budget of the judiciary in the Parliamentary Committee for Legal Issues, Public Administration and Human Rights.

CROATIA

The State Judicial Council scope of work does not include any involvement, role in preparing or deciding regarding the budget of the judiciary (except preparing proposal for its own budget).

DENMARK

The Ministry of Finance gives all ministries a framework for the budget. When the Ministry of Justice receives the framework they pass it on to the Court Administration. The negotiations on the budget for the Judiciary are handled by the Court Administration. The negotiations are made between the Court Administration, The Ministry of Finance and the Ministry of Justice. The budget must be approved by the Board of Governors. The budgetary negotiations are finalized in a meeting between the chairman of the Board of Governors from the Court Administration, the permanent secretary of the Ministry of Justice and representatives from the Ministry of Finance. The Ministry of Finance approves the final budget and presents the entire state budget to the parliament as the Finance Bill.

The Court Administration has a unique possibility as an independent institution to present its own budget proposal directly to the Parliament. This is stated in a comment to the Court Administration Act and underlines

the independence of the Danish Court Administration. The Court Administration has however never used this possibility.

LITHUANIA

The main elements of the budgetary process is indicated in Scheme 2 attached).

PORTUGAL

The Minister of Justice, previously, negotiates with the Judicial High Council and with the presidents of the superior courts (cf. below). Then he presents a draft to the Minister of Finance, which is the responsible for the preparation of a project of the state budget. This project is submitted to the approval of the Government (Council of Ministers).

According to the Constitution, the Government must submit the proposed budget to the Parliament (Assembleia da República) by 15 October. The members of the Parliament discuss and vote it until 15 December. The approval demands a 51% majority.

After the approval, the budget is submitted to the appreciation of the President of the Republic.

2.1.1. Who draws up the budget?

BELGIUM

Minister of Justice

CROATIA

Courts, Ministry of Justice, Ministry of Finance and Government.

ENGLAND AND WALES

Each year's budget is initially prepared by officials within HMCTS but the preparatory process is significantly influenced by discussions with the Ministry of Justice and with the Lord Chief Justice.

ESTONIA

The minister of Justice shall approve the budgets of courts of the first instance or courts of appeal within two months after the state budget is passed as an Act, considering the opinion formulated by the Council for Administration of Courts. The budget of the Supreme Court shall be passed pursuant to the procedure provided for in the State Budget Act.

FRANCE

The Ministry of Finance, on the basis of the previous year budget and discussions with the Ministry of Justice.

GERMANY

The annual budget estimate (draft budget) is, both at state and federal level, is prepared by the ministry of finance after consultation with the ministry of justice.

The federal courts' budget is part of the federal Ministry's overall budget, and must be approved annually by the Bundestag. These funds are earmarked.

As a constitutional organ – and unlike the regular courts – the Federal Constitutional Court is not subject to the administrative supervision of a ministry. The Plenary of the Federal Constitutional Court prepares its draft budget of approximately EUR 28 million per year.

HUNGARY

The NOJ determine the budget. It previously assesses the needs of the institutions, the priority issues which arises with act amendments and the other tasks associated the chapter. The Curia determine its own budget

independently.

IRELAND

Courts Service management prepare a draft budget setting out funding requirements for the next year. This is approved by the Board of the Courts Service. It is then submitted to the Department of Justice and Equality for consideration in the overall Government Budgetary process.

LITHUANIA

The overall State budget draft is drawn up by the Ministry of Finance.

The draft for distribution of budget allocations to each court is prepared by the NCA and approved by the Judicial Council (and submitted to the Ministry of Finance and the Government).

MONTENEGRO

The budget for the courts is drawn up by the Judicial Council in cooperation with the courts.

THE NETHERLANDS

The budget is an earmarked part of the budget of the ministry of Justice.

NORWAY

The budget process consist of:

- Ministry of Finance, and the Ministry of Justice makes guidelines for the budget
- Following these guidelines, the Norwegian court administration (NCA) prepare a budget proposal which is sent to the Ministry of Justice
- The Ministry of justice process this proposal (and proposals from other sectors, such as penitentiary administration and the police).
- Based on this information, the Government/King of council/Council of Ministers make and overall budget proposal to the Parliament.
- The Standing Committee on Justice (in The Parliament) processes the proposal and the Parliament votes and agrees on the budget. The Committee can make changes in the proposal from the Ministry of Justice/King of council.

NORTHERN IRELAND

Funding is provided to the Northern Ireland Executive (a devolved administration) from the UK government as a block grant. Each department within the Executive is provided with a spending allocation. NICTS as an Agency of the DoJ secures its funding through the government financial estimating process. The Constitutional Reform Act 2005 (section 4.1) provides a legislative guarantee of judicial independence. The salaries for most full-time judges are ring fenced and are paid directly into the NI Consolidated Fund. The salaries for some full time judges remain subject to the bidding process for departmental funding.

POLAND

Pursuant to the judgements of the Constitutional Tribunal, the budgetary separation of the common judiciary authorities has a relative character so that the judiciary budget is part of the state budget, but it constitutes a separate part shaped on special rules provided for in the Public Finances Law and the Law on Common Courts System. It means that the common judiciary budget cannot be connected with incomes and outcomes allocated for financing any other activity, including, among others, activities of the Minister of Justice.

ROMANIA

The two largest spending authorities in the judicial sector, the MOJ and the PM, use a “bottom-up” budgeting process to develop their budget proposals and initially draft a budget based on “needs” identified by lower-level units. The tertiary spending authorities (tribunals for the MOJ and prosecutors’ offices attached to the tribunals for the PM) prepare their own budgets and the budgets of the district courts under their jurisdiction. These proposals, however, may exceed past spending patterns and are derived without any performance measures. They are then sent to the secondary spending authorities (courts of appeal for the MOJ and the prosecutors’ offices attached to the courts of appeal for the PM), which prepare their own budgets (which may again exceed the usual limits approved) and aggregate all the budgets from the tribunals under their jurisdiction. This consolidated budget proposal is then sent to the national offices of the MOJ and the PM.

SERBIA

The High Judicial Council for courts, State Prosecutorial Council for prosecutors and Ministry of Justice.

REPUBLIC OF SLOVAKIA

Courts in Slovak Republic are related (linked) by their revenues and expenditures to budget of the Ministry of Justice. Courts shall prepare bases required for the preparation of the budget of courts in cooperation with bodies of the judicial self-administration. The chairman of the district court and the director of the district court administration shall prepare a materially justified draft budget that may contain a proposal for budget priorities of the court and the chairman of the district court shall submit it to the chairman of the regional court by 15 November of the year preceding the year in which budget for the following year is prepared; the president of

the regional court who prepares budget for the regional court shall apply the same procedure.

The chairman of the regional court shall ensure the preparation of bases for the draft budget for the district of the regional court and discuss such draft with chairmen of the district courts in its district. The Minister of Justice shall negotiate results of such discussion, together with observations raised by the councils of judges to the draft budget, with chairmen of the regional courts. The chairmen of the regional courts shall present such bases for the preparation of the budget of courts for their districts to the Ministry of Justice and to the Judicial Council of the Slovak republic by 31 December of the calendar year.

The chairman of the Specialized Criminal Court and the director of the Specialized Criminal Court administration shall draw up a materially justified draft budget of the Specialized Criminal Court that may also contain a proposal for budget priorities of the Specialized Criminal Court by 15 November of the year preceding the year in which the budget for the following year is prepared. The Minister of Justice shall discuss the draft budget of the Specialized Criminal Court with the chairman of the Specialized Criminal Court. The chairman of the Specialized Criminal Court shall present such bases for the preparation of the budget of the Specialized Criminal Court to the Ministry of Justice and the Judicial Council of the Slovak republic by 31 December of the calendar year.

SPAIN

STATE LEVEL

The ministry of justice presents a draft to the ministry of finance, which is the responsible for the preparation of the state budget bill.

This bill is submitted to the approval of the Government

Government must submit the state budget bill to Parliament (First Congress, secondly Senate and third Congress for the final approval)

The budget for the General Council for the Judiciary and the budget for the Constitutional Court (separated budgets in state budget) are approved by each independent institution as projects. These projects are submitted to the approval of the Government through the ministry of finance.

Government submits the state budget bill to Parliament for the final approval, including the budget for General Council for the Judiciary and the budget for the Constitutional Court.

DECENTRALIZED BUDGETS (CCAA)

The justice department presents a draft to the autonomous finance department, which are responsible for the preparation of the budget bill.

This bill is submitted to the approval of the autonomous government.

Autonomous government in CCAA must submit the budget bill to autonomous parliaments for final approval.

2.1.2. Please describe the stages through which the negotiation moves?

BELGIUM

The budget is drawn by the Minister of Justice, within the lines set up by the government and then submitted to the Council of Ministers and the Minister of Finance. Finally it is approved by the Parliament.

CROATIA

The Ministry of Finance delivers Guidelines and instructions for the preparation of the proposal of the state budget to the ministries, other state bodies on the level of organizational classification and extra-budgetary beneficiaries. When the Ministry of Justice receives documents stated above sends them to the budgetary users (courts, State Judicial Council, Judicial Academy, etc.), and those users compose proposals of their budget and sends the proposal plan back to the Ministry of Justice which determines the needs of budgetary users and incorporates all proposals within the limits set by the Ministry of Finance and delivers compliant financial plan proposal to the Ministry of Finance.

ENGLAND AND WALES

As a result of an agreement reached in January 2004 between the then Lord Chancellor (the Minister for Justice) and the then Lord Chief Justice (the agreement being known as “the Concordat”) considerable effort is made each year by the Lord Chancellor and the Lord Chief Justice to reach an agreement in relation to the following year’s budget for HMCTS. This results in a lengthy and iterative process of annual budgetary negotiation.

In summary, the various steps are that:

- HMCTS prepares its initial budget, influenced in part by initial informal discussions with the Ministry of Justice and with the Lord Chief Justice;
- The budget is then considered by the Ministry of Justice alongside other aspects of that Ministry’s budget including the funding of prisons (NOMS) and legal aid;
- The Ministry of Justice will hold preliminary discussions with HM Treasury (“HMT”) (i.e. the Ministry of Finance) in relation to its overall budget;
- The Ministry of Justice makes its initial budgetary offer (“the indicative allocation”) to HMCTS;
- The indicative allocation is considered by the Board of HMCTS;
- The Board of HMCTS submits advice to the Lord Chief Justice as to whether or not it considers the indicative allocation to be sufficient;
- The budget is formally discussed between the Lord Chancellor and the Lord Chief Justice (“the Concordat discussions”);
- Either the indicative allocation or a revised allocation is hopefully agreed by the Lord Chancellor and the Lord Chief Justice;
- At the same time as the Lord Chancellor and the Lord Chief Justice are conducting their Concordat discussions, the Ministry of Justice will be finalising its discussions with HMT;
- Whilst the power has not yet been exercised, the Lord Chief Justice has the statutory entitlement

to inform Parliament that the Lord Chancellor is proposing a budget for HMCTS which is insufficient;

- In most years, the budget has been agreed between Lord Chancellor and Lord Chief Justice. One year, the Lord Chief Justice neither agreed nor disagreed with the final allocation; in another year a different Lord Chief Justice indicated that he reserved the right to reopen a discussion with the Lord Chancellor in respect of the income aspects of the budget.

The Judges' Council has no formal role in relation to the budget but it is advised of the outcome of the above negotiations.

ESTONIA

Ministry of Justice negotiates the budget with each court and then the Council for Administration of Courts gives its opinion.

FRANCE

The Ministry of Finance will draft a proposal according to the previous year's budget, the global amount of governmental budget and discussions with technical services from the Ministry of Justice.

Thus members of Parliament will meet each program leader (for the Judiciary, the director of judiciary services, for the Council, the first President of the Court of cassation) to discuss this draft budget.

GERMANY

Federal level:

At the federal level the draft budget and draft Budget Act are drawn up by the Federal Ministry of Finance, then deliberated on and adopted by the Federal Government. After this, they must be passed by the Bundestag and the Bundesrat before they can enter into force. The preparation of the budget is regulated precisely in the Federal Budget Code.

The process by which the budget is drawn up begins in the divisions responsible for budgetary affairs within the federal ministries and supreme federal authorities. They have to assemble proposals for their budgets, weigh them up against each other and forward them to the Federal Ministry of Finance as preliminary estimates. Each year, the courts put forth their financial requests for the upcoming fiscal year.

Even at this early stage, there are uniform principles that have to be complied with. They include the principle that a new budget is drawn up each year, the principle that all expected revenues and expenditure are to be set out in full, the principle that all revenues have to be used to pay for all expenditure and the principle that the sum of the revenues must ultimately be equal to the sum of the expenditure. The preliminary estimates are subsequently gathered together, checked and consolidated by the Federal Ministry of Finance. The Ministries of Justice and Finance then work together to develop cost estimates and to draft the final budget. When this is done, the planned expenditure is balanced with the tax revenues forecast by fiscal experts.

Once the Federal Minister of Finance has gathered and consolidated all the departmental budgets, the Federal Government adopts the draft of the overall budget. The budget is divided into an overall budget and the various departmental budgets. The departmental budgets set out in detail the levels of revenue and expenditure for

each ministry and supreme federal authority.

The draft budget and draft Budget Act are forwarded simultaneously to the Bundesrat and the Bundestag. Here, the proposals are reviewed by working groups and compared with the financial plan, which sets out the prospective development of the budget over the next five years. The financial plan is also drawn up by the Federal Minister of Finance and adopted by the Federal Government. The Bundesrat delivers its comments on the draft budget within six weeks. The Federal Government issues a counterstatement to the Bundesrat's comments, then transmits both to the Bundestag. This means the Bundestag is able to take account of the attitude of the Länder in its deliberations.

The deliberations in the Bundestag involve three readings. During the first reading, the Federal Minister of Finance presents the budget. After several days of debate, the draft budget is then transmitted to the Budget Committee. The rapporteurs on the Committee examine all individual items of expenditure, discussing them in depth in the ministries and delivering their recommendations to the Budget

Committee. These recommendations are then scrutinised in what are known as departmental budget deliberations. In the end, the Committee presents the Bundestag with a more or less heavily amended draft budget. This is followed by the second reading, during which debates again take place between the government and the opposition. Each departmental budget is voted on at this stage. During the third reading, the whole piece of legislation, including all amendments, is put to a final vote.

Lastly, the budget adopted in the Bundestag is again presented to the Bundesrat. If the Bundesrat agrees to it immediately, the Budget Act is signed by the Federal Minister of Finance, the Federal Chancellor and the Federal President, then published in the Federal Law Gazette.

Following the end of the financial year, the Federal Court of Audit examines the actual levels of revenue and expenditure meticulously, then formulates "observations" on the budgetary management of the Federal Government. These observations are important because they provide the basis for the discussion in Parliament when it eventually has to discharge the Federal Government.

Länder level:

The above principles are generally true of the budget process in the Länder. Although slight variations appear from state to state.

Based on the budget from the preceding financial year, each ministry of justice of each Land starts consultations with the Presidents of the Courts of Appeal, who act in their capacity as part of the executive in this matter, and the Prosecutors general. A draft budget is drawn which is the basis for consultations with the ministry of finance on a working level. If no consent can be reached between the civil servants of each ministry, the questions in dispute are being taken up finally by the ministers themselves. The final decision always stays with the minister of finance. If the budget for the government as a whole is finalized, it is transmitted to the local Parliament. The budget for the judiciary is being treated as all other budgets of the state executive. The size depends very much on the standing of the minister of justice within cabinet.

HUNGARY

The president of the NOJ compose her proposition concerning the budget of courts and the report of its execution, based on of the chapter Courts of the Budget Regulations Act, and with the opinion of the president of the Curia, and the president of the National Judicial Council (NJC). If a consensus is not reached during the

negotiation with the representative of the Ministry for National Economy about the amount of the financing, the Government submit the proposal to the Parliament without modification as part of the draft law concerning the Central Budget and its execution.

IRELAND

The Department of Justice and Equality, in discussion with Courts Service management, consider the draft Budget request and negotiate with the Department of Public Expenditure and Reform in relation to the funding to be provided in 2016.

LITHUANIA

The NCA in accordance with the needs of the courts prepares calculations of the needs of all courts. The Judicial Council applies in writing to the Ministry of Finance and the Government for the needs of all courts. The Ministry of Finance submits an allocation proposal in one sum for all courts.

The NCA prepares a draft for distribution of budget allocations to each court and submits it to the Judicial Council. The Council approves the distribution of budget allocations to each court by the Judicial Council's resolution and submits it to the Government and the Ministry of Finance and also applies in writing once again for the needs which are not financed.

Sometimes, the Ministry of Finance announces about the additional financing which is also distributed among the courts by the Judicial Council's resolution. Also, after the Government submits a draft of the State budget to the Parliament, the Heads of the Judicial Council and the NCA meet with the Committee on Legal Affairs in the Parliament.

MONTENEGRO

At the end of May, the Finance Ministry requests from the Judicial Council to make a proposal of the budget by end of July. The Judicial Council then calls each and every court to submit budget proposals by end of June. The Judicial Council compiles all the budget proposals reviews them and makes a single budget proposal for the courts.

THE NETHERLANDS

In January The Council for the Judiciary makes a budget proposal for the next year. The proposal is based on a forecast of the influx of cases and the prices of the different cases. The proposal is judged by the ministry resulting in the proposal of the ministry to parliament (September).

October/November parliament discusses the proposal of the ministry, having knowledge of the proposal of the Council. Parliament can amend the proposal of the ministry.

NORWAY

The stages/process is described in the answer above. There are some exchange of information between NCA and the Ministry of Justice, through the budget process. These meetings are more for information, and not in fact negotiations.

NOTHERN IRELAND

The Office of the Lord Chief Justice (OLCJ) annually submits a bid to the NICTS for its budgetary requirements throughout the year as part of the normal budgeting process. The OLCJ, as part of the overall NICTS, is provided with a draft budget based on the Department's spending allocation for the NICTS. This is a formal budget setting process. Quarterly monitoring rounds take place to determine how departments are performing against their budget allocation and adjust as necessary. The Judges' Council has no formal role in this process.

PORTUGAL

Then he presents a draft to the Minister of Finance, which is the responsible for the preparation of a project of the state budget.

ROMANIA

The MOJ and the PM then aggregate the budgets from all the secondary spending authorities and add in their own budget for administration and national programs. The total budgets are then sent to the SCM, a legal requirement, and then the MOJ submits the full budget request to the MOPF, similar to other line ministries. Another negotiation stage is within the parliamentary procedure when the decision makers/head of justice entities can argue before the parliamentary committees for additional resources that may be granted.

SERBIA

In accordance with the instructions of the Ministry of Finance, the courts / prosecutors' offices submit their proposals financial plans to the High Judicial Council / State Prosecutorial Council and to the Ministry of Justice.

REPUBLIC OF SLOVAKIA

As indicated above, chairman of the district court and the director of the district court administration shall prepare a materially justified draft budget which the chairman of the district court shall submit to the chairman of the regional court. The chairman of the regional court shall ensure the preparation of bases for the draft budget for the district of the regional court and discuss such draft with chairmen of the district courts in its district.

The Minister of Justice shall negotiate results of such discussion, together with observations raised by the councils of judges to the draft budget, with chairmen of the regional courts. The chairmen of the regional courts shall present such bases for the preparation of the budget of courts for their districts to the Ministry of justice and the Judicial Council by 31 December of the calendar year.

The Ministry of Justice as the administrator of the budget head shall prepare a draft budget of courts that are related by their revenues and expenditures to the budget of the Ministry on the basis of documents prepared by the courts and on the basis of underlying documents of the budget of public administration, approved by the Government, in the term laid down by the Ministry of Finance of the Slovak republic. It shall send the prepared draft budget for information to the chairman of the Specialized Criminal Court and the chairman of the regional court who shall inform about the draft the district courts.

SPAIN

The preparation of the state budget is regulated precisely in the general budget law.

The process is initiated by the Ministry of Finance, which issues guidelines on the drafting of the state budget based on the macroeconomic framework. These guidelines are applicable to all state institutions. The ministry of justice assemble proposals for the Courts in territories with competences over judicial system not transferred. A new budget is drawn up every year. Revenues must be equal to expenditures according to balance budget principle. Ministries of justice and finance work together to develop cost estimates and to draft the final budget. The General Council for the Judiciary and the Constitutional Court have a very high level of independence in this process. The common courts do not have that level of independence at budgetary preparation level. At decentralized level (CCAA) the budget negotiation process is similar with some differences. The General Council for the Judiciary and the Constitutional Court do not participate at this level.

2.1.3. To whom is the budget submitted?

BELGIUM

The Council of Minister and the minister of Finances.

CROATIA

To the Government of Republic of Croatia.

ENGLAND AND WALES

The budget for HMCTS is part of the overall budget of the Ministry of Justice. That budget is submitted annually to Parliament for its formal approval.

ESTONIA

The Courts and the Council for Administration of Courts.

FRANCE

The budget is submitted to the Parliament by a Finance Law each year.

GERMANY

See above. At the Länder level it is submitted to the local Parliament of each Land.

HUNGARY

It shall be submitted to the Minister of National Economy.

LITHUANIA

The Ministry of Finance submits the draft of the State budget to the Government, and the Government submits the draft of the State budget to the Parliament (Seimas) in the form of the draft of the law. This draft of the law includes the proposed budget of each court and separately the budget of the NCA.

MONTENEGRO

The budget is submitted to the Finance Ministry.

THE NETHERLANDS

To the council of the Judiciary.

NORWAY

The budget is submitted to the Ministry of Justice for consideration in the overall Government budgetary process.

NORTHERN IRELAND

The NICTS submits an overall bid on an annual basis to the DoJ which is considered as part of DoJ's spending allocation.

POLAND

Pursuant to art. 178 of the Common Courts Law, drafts of financial plans and financial plans for courts in reference to appeals are worked out by Directors of Courts of Appeals on the basis of drafts drawn up by Directors of Circuit Courts, Presidents of District Courts, or Financial Managers of District Courts in case they are appointed, according to rules set out in regulations referring to public finances. There should be noted here the legal position of the Director and Financial Manager of a court who, pursuant to art. 21 § 1 item 4 and § 2 and 3 of the Common Courts Law, are court bodies in the financial and economic scope and who perform tasks imposed upon managers of units on the basis of separate regulations, are subject to the Minister of Justice and bear a full liability for violating the public finances discipline.

Draft budgets of Common courts are presented to the National Council of the Judiciary and the Ministry of Justice. Then the National Council of the Judiciary submits to the Minister of Justice an application to work out a draft plan of revenues and expenses of Common courts together with its remarks and reservations, which is presented by the Minister of Justice to the Minister of Finance in order to be included in the Budget Law draft. Pursuant to the Public Finances Law, revenues and expenses included in the plans are included into the Budget Law draft without any amendments. The Minister of Finance presents the Budget Law draft to the Parliament. Changes in financial plans of the courts can be practically introduced by Sejm and the regulation ensures a constitutionally guaranteed independence of the courts from the executive authorities, while these authorities cannot intervene into the regulation of the judiciary financing at the stage of the Budget Law draft.

All the above mentioned regulations ensure a relative, although only partial financial autonomy for the justice department bodies. On the other hand, a detailed statutory determination of the volume of the basic remuneration of a judge is based on clear criteria of making it independent of a decision of third persons, either the Minister of Justice, the Court's President, or the Division Manager. It is to secure the independence of judges by means of a protection against possible negative pressures from outside upon the judgement activity.

PORTUGAL

This project is submitted to the approval of the Government (Council of Ministers). According to the Constitution, the Government must submit the proposed budget to the Parliament (Assembleia da República) by 15 October.

ROMANIA

After being endorsed by the SCM, the draft budget is submitted to the Ministry of Public Finances for approval and then to the Parliamentary committees to be approved before entering in parliamentary procedure.

SERBIA

The High Judicial Council / State Prosecutorial Council and the Ministry of Justice on behalf of the court / prosecutor's offices submit draft financial plan to the Ministry of Finance, where they negotiate about the amount of the proposed budget.

REPUBLIC OF SLOVAKIA

Ministry of Finance submits the budget of public service to the government for approval. The government submits the state bill of state budget for the corresponding budget year and for information the budget of public service to the National Council of the Slovak Republic (Parliament).

The proposal of public service budget submits the Ministry of Finance to the government by August 15th of the current year if the government does not defines an earlier term. The government decides about the public service budget usually by September 30th of the current year. The government presents the proposal of the public service budget to the National council (Parliament) by October 15th of the current year, if the National council does not decide otherwise.

SPAIN

At state level it is submitted to the State Parliament (Congress and Senate).

At decentralised level it is submitted to the autonomous parliaments (CCAA)

2.1.4. Who approves the budget?

BELGIUM

Parliament.

BULGARIA

The National Assembly approves the budget, as the current practice shows that despite all the dialogues the draft of the Ministry of Finance on a draft budget of the judiciary is approved, which actually negates the independence of the budget of the judiciary.

CROATIA

The Parliament of Republic of Croatia.

ENGLAND AND WALES

The annual budget for HMCTS is approved by the HMCTS Board, the Lord Chancellor and the Lord Chief Justice.

ESTONIA

The Minister of Justice.

FRANCE

Parliament must approve this Finance Bill.

GERMANY

See above. At the Länder level it is approved by the local Parliament of each Land.

HUNGARY

The Parliament approves the budget.

IRELAND

The decision on the budgetary allocation for all Government Departments and agencies is made at Government level and presented to Parliament by the Minister for Finance.

ITALY

Article. 81 of the Constitution states that Parliament approves the annual budget and the report presented by the Government.

The state budget is a document of estimates, indicating the income and expenses of the state administration, for a specified period of time.

In particular, it is prepared by the Minister of Economy and Finance and it is based on annual and multiannual.

It records the financial resources to be acquired (incomes) and those that will be provided by the central Government over the next three years. It must be approved by Parliament by 31 December of the previous financial year which it refers to. Funds for Justice indicated in the budget are given to the Ministry of Justice.

LITHUANIA

Each year the State budget in the form of law is adopted by the Parliament. The members of the Parliament discuss and vote. After the approval by the Parliament the budget (as all other laws) is submitted for the signature of the President of the Republic.

MONTENEGRO

The Finance Ministry proposes the general budget to the Government which adopts it and forwards it to the Parliament. The Parliament adopts it in the form of the law.

THE NETHERLANDS

In first instance the ministry of Justice, Finally parliament.

NORWAY

The Government (King in council / council of Minister) brings forward the budget to the Parliament, and the Parliament votes for it and approves it.

NORTHERN IRELAND

The Executive's Draft Budget will set out proposed plans for the new financial year. As part of the budget process, DoJ allocates funding based on Ministerial priorities. The final budget is approved by the Executive.

POLAND

The budget of Common courts is approved by the Parliament and signed by the President of the Republic of Poland pursuant to the whole Budget Law. The President cannot veto the Budget Law, but he can return it to the Constitutional Tribunal before signing it with a request to check its compliance with the Constitution.

PORTUGAL

The members of the Parliament discuss and vote it until 15 December. The approval demands a 51% majority. After the approval, the budget is submitted to the appreciation of the President of the Republic.

ROMANIA

The final approval of the budget goes before the Parliament.

SERBIA

The Ministry of Finance shall prepare a draft law on the budget based on the proposals of the financial plans of all budget beneficiaries and submit to the Government for approval.

REPUBLIC OF SLOVAKIA

State budget for the corresponding budget year is approved by the National Council of the Slovak republic in the Act of State Budget.

SPAIN

At state level the budget is approved by the state parliament (Congress and Senate).
At decentralised level it is approved by the autonomous parliaments (CCAA).

2.1.5. Does the Judiciary participate in the preparation of the budgets of local courts? If so, what is their role?

BELGIUM

No . (However the management and direction of the judicial organisation is recently reformed so that in the near future the organisations of judges and prosecutors will separately receive and manage their own budget and be responsible for it.)

BULGARIA

SJC prepares and gives instructions to all judicial authorities on the preparation of the draft budget for the respective year. These instructions are developed on the basis of annual decisions of the Council of Ministers on budgetary procedure for the respective year.

CROATIA

The Ministry of justice draws up the budget for the judiciary based on the proposals and needs of the courts and submits it to the Ministry of Finance which submits the draft of the budget to the Government of Republic of Croatia and the Government determines the budget and submits it to the Croatian Parliament who passes the Act on the budget.

DENMARK

The preparation of the budget is done by the Court Administration alone.

The local courts are not directly involved in the preparation of the budget. They are however being informed and heard as well as they can inform the Court Administration of special changes or needs in a specific court.

ENGLAND AND WALES

The judiciary has no formal role in the preparation of the budgets of local courts. However once the overall national budget for HMCTS has been agreed through the Concordat process set out above, HMCTS has to decide how to allocate that budget to the seven regions and, through the regions, to individual courts. Were difficulties to emerge in deciding how to allocate budgets to the regions, those difficulties would be brought to the Board of HMCTS for it to decide. Three judges sit on the Board of HMCTS.

ESTONIA

The budget is negotiated with the Courts and the Council for Administration of Courts.

FRANCE

The Judiciary is not formally involved in this preparation. The President of the Council for the Judiciary will be interviewed by MPs to make any comments on the budget allocated to the Council. But no representative of the Judiciary, except the director from the Ministry of Justice will intervene in debates on the Judiciary program.

GERMANY

The Presidents of the Courts of Appeal and the Prosecutors general are consulted.

However, the Presidents of the Courts of Appeal do not represent the judiciary of the Land or their court district, but are, within their administrative tasks, part of the court administration of the Land. The Presidents do not have judicial independence when acting in their executive capacity.

HUNGARY

The judicial councils deliver opinions on the annual draft budget of courts and on the use of the approved budget.

IRELAND

The Courts Service Board which approves the draft budget submitted to the Department of Justice and Equality is chaired by the Chief Justice and has a majority of judicial members including the President and a representative of each court jurisdiction.

ITALY

It was planned in each district for the establishment of the Standing Conference composed of the Heads of the courts and administrative leaders, chaired by the President of the Court of Appeal (and also composed of the Attorney General at the same court) or at the locations that are not the district capital, the president of the court;

It was expected that each Standing Conference was given the task to identify and propose the necessary requirements to ensure the operation of the courts and to indicate the specific requirements concerning the management, logistics and also with regard to the allocation and assignment of interior spaces between offices, the maintenance of the property and of the relevant structures, and those relating to services.

LITHUANIA

All courts each for itself submits to the Ministry of Finance (and a copy to the NCA and the Judicial Council) their budget proposals/ allocation needs for the next year. The Judicial Council applies in writing to the Ministry of

Finance and the Government for the needs of all courts. The Ministry of Finance submits an allocation proposal in one sum for all courts. The NCA prepares a draft for distribution of budget allocations to each court and submits it to the Judicial Council. The Council approves the distribution of budget allocations to each court by the Judicial Council's resolution and submits it to the Government and the Ministry of Finance. That distribution of budget allocations to each court is incorporated into the draft of the State budget submitted to the Parliament.

MONTENEGRO

Please see above.

THE NETHERLANDS

Yes. The local courts make budget proposals. The council judges this proposals and submits budgets. These budgets must fit with the total budget of the Judiciary received by the Council.

NORWAY

No. When the Parliament decides the budget for the Judiciary, the judicial authority (The Ministry of Justice), play no further role in administrating the allocated budget to different courts and activities. This authority is transferred to NCA and its board. The Board consist of nine members where the chairman is a judge in the Supreme court. There are aslo three other judges in the board.

NOTHERN IRELAND

There is a Service Level Agreement in place which ensures that the Lord Chief Justice is consulted on the Executive's Budget, however there is no formal process for judicial involvement. The Minister of Justice will write to the Lord Chief Justice to outline the budget. The Executive agrees the budget allocations for each Department and each Department considers the implications of the Executive budget allocation against its Minister's priorities.

POLAND

Pursuant to art. 178 of the Common Courts Law, drafts of financial plans and financial plans for courts in reference to appeals are worked out by Directors of Courts of Appeal on the basis of drafts drawn up by Directors of Circuit Courts, Presidents of District Courts, or Financial Managers of District Courts in case they are appointed, according to rules set out in regulations referring to public finances.

PORTUGAL

The Supreme Court of Justice, the Supreme Administrative Court and the Appeal Courts have their own budget, designed to support the costs of the judiciary board and staff assigned to them, other current expenditure and capital expenditure necessary to carry out its responsibilities.

The budget of those courts is approved by the administrative council, a body composed by the president of the court (a judge elected by his peers), the court administrator, two judges (appointed by the court plenary, under proposal of the president) and the director of administrative and financial services.

The incomes are allocated from the state budget and directly from procedural fines and from the sale of law publications. Each court of first instance has its own budget. The budget is approved by the management council, a body composed by the court president (a judge appointed by the Judicial High Council), the local Chief Prosecutor (appointed by the Public Ministry) and the court administrator (public officer appointed by the president from a list of five previously selected by the Ministry of Justice). The execution of that budget depends on the approval of the Ministry of justice.

The Judicial High Council also has its own budget, intended to support the costs with its members and staff, with the first instance judges and with other current and capital expenditure necessary to carry out its responsibilities.

This budget is prepared by the administrative and financial services direction and approved, in plenary, by the members of the Judicial High Council (the Supreme Court of Justice President, two personalities appointed by the president of the republic, seven judges elected by their peers, seven personalities elected by the parliament).

ROMANIA

Draft proposal of the budget. See above.

SERBIA

The judiciary - courts / prosecutors' offices prepare their budget proposals, in accordance with the instructions of the Ministry of Finance.

REPUBLIC OF SLOVAKIA

The budget of the individual courts is drawn up separately by the chairman of the district court and the director of the district court administration who shall prepare bases required for the preparation of the budget of court in cooperation with bodies of the judicial self-administration upon the requirements of the particular court.

SPAIN

At state level the ministry of justice is responsible for the evaluation, preparation and approval of the Courts

financial budget, including all salaries of judges and prosecutors as said before. The Judiciary does not have a predominant role in this process.

Both the General Council for the Judiciary and the Constitutional Court have a very high level of independence in this process and prepare their budgets. The common courts do not have that level of independence at budgetary preparation level.

At decentralized level the courts' participation is similar.

2.1.6. What is the role of the Council of Ministers or the Minister of Finance in the preparation of the court budget? Is the budget drawn up independently by the Minister of Justice or in collaboration with the National Council for the Judiciary or another body

ALBANIA

The budget for the judiciary is prepared independently, according to the process explained above from the Office for the administration of the Judicial Budget and its Board for the first instance and appeal courts, from the High Council of Justice and the Supreme Court.

The Ministry of Finance, acting as coordinator body for all budgetary institutions, analyzes the presented budget and integrates it in the state budget and then submits the latter to the Council of Ministers.

The Ministry of Justice is responsible to negotiate the draft budget for the judiciary, part of the state budget law in the Council of Ministers in order to be adopted completely and without any cuts in funds.

BELGIUM

→ Financial control of the overall budget.

→ The High Council for the Justice is not at all involved.

DENMARK

Overall framework only. They are not involved in the preparation of the court budget. The budget proposal (the framework) is handed down from the Ministry of Finance through the Ministry of Justice to the Court Administration. The negotiations are done in collaboration between these three parties.

ENGLAND AND WALES

Whilst the budget for HMCTS is discussed between HMCTS, the Lord Chancellor and the Lord Chief Justice, the amount of that budget, when it is finally agreed, becomes part of the overall Ministry of Justice budget which it will agree with HMT (i.e. the Ministry of Finance).

The Judges' Council for England and Wales has no formal role in agreeing the budget. On the other hand, the three judicial board members of HMCTS and the Judicial Executive Board (a group of the ten most senior judges) advise the Lord Chief Justice as to whether or not to agree the proposed budget for HMCTS.

ESTONIA

Minister of Finance prepares the strategy of the budget (working together with Minister of Justice and Minister

of Justice involves the Courts and the Council for Administration of Courts). Minister of Justice draws up the budget together with courts and the Council for Administration of Courts also gives its opinion.

FRANCE

When the Finance Bill has been sent to Parliament, neither the Council of ministers, nor the Minister of Finance are supposed to propose changes, but negotiations with MPs occur to take into account specific issues which might not have been noticed previously.

GERMANY

At the federal level the draft budget and draft Budget Act are drawn up by the Federal Ministry of Finance, then deliberated on and adopted by the Federal Government. After this, they must be passed by the Bundestag and the Bundesrat before they can enter into force. The preparation of the budget is regulated precisely in the Federal Budget Code.

The process by which the budget is drawn up begins in the divisions responsible for budgetary affairs within the federal ministries and supreme federal authorities. They have to assemble proposals for their budgets, weigh them up against each other and forward them to the Federal Ministry of Finance as preliminary estimates. Each year, the courts put forth their financial requests for the upcoming fiscal year.

Once the Federal Minister of Finance has gathered and consolidated all the departmental budgets, the Federal Government adopts the draft of the overall budget.

The draft budget and draft Budget Act are forwarded simultaneously to the Bundesrat and the Bundestag. The Bundesrat, which is the body within the federal structure that represents the interests of the federal states, delivers its comments on the draft budget within six weeks. The Federal Government issues a counterstatement to the Bundesrat's comments, then transmits both to the Bundestag. This means the Bundestag is able to take account of the attitude of the Länder in its deliberations.

The Bundestag decides the budget. During the deliberations changes of the draft budget are possible.

Lastly, the budget adopted in the Bundestag is again presented to the Bundesrat. If the Bundesrat agrees to it immediately, the Budget Act is signed by the Federal Minister of Finance, the Federal Chancellor and the Federal President, then published in the Federal Law Gazette.

To the extent that revenues based upon specific laws and derived from taxes, or duties, or other sources, or the working capital reserves, do not cover the expenditures the Federal Government may borrow the funds necessary to sustain current operations up to a maximum of one quarter of the total amount of the previous budget (Article 111 para 2 of the Basic Law).

Expenditures in excess of budgetary appropriations or for purposes not contemplated by the budget shall require the consent of the Federal Minister of Finance. Such consent may be given only in the event of an unforeseen and unavoidable necessity. Details may be regulated by a federal law.

HUNGARY

As I wrote, the president of the NOJ compose her proposition concerning the budget of courts and the report of its execution, based on of the chapter Courts of the Budget Regulations Act, and with the opinion of the president of the Curia, and the president of the National Judicial Council (NJC). If a consensus is not reached during the negotiation with the representative of the Ministry for National Economy about the amount of the financing, the Government submit the proposal to the Parliament without modification as part of the draft law concerning the Central Budget and its execution.

The composed budget shall be submitted to the Minister of Finance = Minister of National Economy. The president of the NOJ, the president of the Curia negotiate with professionals assigned by the Minister of National Economy about the draft budget during conciliation meetings.

IRELAND

The role of the Minister for Finance, Government and the Parliament is set out above.

ITALY

The role of the Minister for Finance, Government and the Parliament is set out above.

As already said the government presents the budget that is approved by Parliament.

The High Council does not participate in the preparation of the budget, as an independent body also for the accountability. Therefore it has a proper financial budget and specific allocations.

This corresponds to the constitutional provision of Article. 110, which states that "except for the matters of competence of the High Council, the organization and management of all services associated with the administration of justice will be the responsibility of the Minister of Justice."

The items of expenditure related to justice are managed directly by the Ministry of Justice.

LITHUANIA

Already answered above. The Minister (Ministry) of Justice doesn't participate in the preparation of the budgets of the courts or the budget of the NCA.

MONTENEGRO

Please see above. The Justice Ministry has no role in drawing up the budget for judiciary.

THE NETHERLANDS

The budget is drawn up independently by the minister of Justice but in the end the minister of Finance judges

the budgets of all departments including Justice. Formally there is collective decision making in the Dutch government.

NORWAY

The ministry of Justice creates a budget proposal for their divisions (Judiciary, Penitentiary and Police). This proposal is negotiated with the Council of Ministers and the Ministry of finance. At the end of the negotiations, the Council of Ministers decides on an overall budget, which is sent to the Parliament. The Ministry of Finance is responsible for coordination and analyzing the different draft budgets from all Ministries.

NORTHERN IRELAND

Role of the Council of Ministers: None, it is prepared by the Minister of Justice.
It is drawn up independently by the Minister of Justice.

POLAND

The overall draft of revenues and expenses of Common courts is drawn up by the Minister of Justice on the basis of a draft sent by courts by means of the National Council of the Judiciary and with its remarks. The budget of administrative courts is drawn up and sent to the Minister of Finance (who includes it without any changes in the Budget Law) by the President of the Supreme Administrative Court; the budget of the Supreme Court is drawn up and sent to the Minister of Finance by the First President of the Supreme Court.

PORTUGAL

Already answered above.

ROMANIA

As previously detailed, the SCM endorses the draft budget proposed by the MoJ that is then submitted to the Ministry of Public Finances for approval. The draft budget is drawn by the MoJ not independently but in collaboration with the spending authorities and the SCM.

SERBIA

The Ministry of Finance determines the guidelines and instructions and sets limits (volume of assets) to create a budget for all budget users, as well as for the courts. One part of the budget of the courts prepares the Ministry of Justice, and the second High Judicial Council.

REPUBLIC OF SLOVAKIA

The Ministry of Justice as the administrator of the budget head shall prepare a draft budget of courts on the basis of documents prepared by the courts and on the basis of underlying documents of the budget of public administration, approved by the Government. The Ministry of Justice and the Supreme Court shall present the underlying documents for the preparation of the budget of public administration and the draft budget of courts to the Judicial Council, so that the Judicial Council can adopt an opinion to the budget within a legal deadline. The opinion (comments) of the Judicial Council on the draft budget of courts is a part of the draft state budget that the Government presents to the National Council of the Slovak Republic.

SPAIN

The budget is drawn up independently by the Minister of Justice as explained above.

2.1.7. Is the Council of ministers or the Minister of finance empowered independently to introduce changes to the draft of the budget accepted by those bodies or are such changes introduced by Parliament only?

ALBANIA

Either the Ministry of Finance or/and the Council of Ministers has the right to intervene or make changes in the draft budget submitted by the judicial power. If any, the changes are then presented in parliament, which also can make amendments for changes to the state budget law.

BELGIUM

No (only approve or refuse).

CROATIA

Yes.

DENMARK

The Minister of Finance can introduce changes to the draft of the budget. When negotiating the Finance Bill the Parliament can also introduce changes.

ENGLAND AND WALES

It is possible for the Chancellor of the Exchequer (the Minister of Finance) to change (i.e. reduce) a previously agreed budget allocated to the Ministry of Justice. That happened most recently in the summer of 2015. However, were the Lord Chancellor to seek to reduce the HMCTS budget (as a consequence of the reduction in the Ministry of Justice budget) he would have to restart the Concordat process set out above. It would be open to the Lord Chief Justice to decline to agree to any reduction in the budget for HMCTS.

ESTONIA

Changes to the state budget can be introduced by Parliament only. During a budgetary year, the minister responsible for the area may amend the budget expenditure of a court only with good reason after having considered the opinion of the chairman of the court and the director of the court and pursuant to the principles formulated by the Council for Administration of Courts.

FRANCE

See the answer to the previous question.

GERMANY

The budget has to be approved by Cabinet before being transmitted to Parliament. In Cabinet, the minister of justice can ask for final changes of the budget if he/she does not consent with the draft of the minister of finance. This has to be approved by Cabinet majority.

See the answer to the question before.

HUNGARY

There isn't.

IRELAND

The Minister for Finance and the Government is empowered to introduce changes to the draft of the budget approved by the Board of the Courts Service.

ITALY

Only the Parliament approves the budget. Any further changes are introduced by the Parliament with a specific note of changes.

LITHUANIA

The changes of the budgets of the courts have to be approved by the Judicial Council's resolution. The Ministry of Finance or the Government informs the Judicial Council about the changes of the whole proposed amount of budget allocations to the courts, the Judicial Council decides on the changes to each court's budget by the Judicial Council's resolution and then the draft of distribution of budget allocations to each court is incorporated into the draft of the State budget submitted to the Parliament. Also, the Law on the State Budget provides that the Judicial Council has the right to initiate the re-distribution of the budget allocations among the courts once every quarter of the budget year.

MONTENEGRO

Yes, the both the government and the Minister of finance can independently introduce changes to the draft of

the budget accepted by the Judicial Council.

THE NETHERLANDS

See before. The minister of finance can not make changes. But he can try to influence the minister of Justice. The budget draft can differ from the proposal of the Council. The differences are visible for Parliament.

NORWAY

In order to make changes to the budget of the Judiciary, a new proposal need to be approved by the Parliament.

NORTHERN IRELAND

Yes.

POLAND

Amendments to the judiciary budget are introduced by the Parliament only (Sejm and Senate). It is to preserve a relative budgetary autonomy of the judiciary authority from the executive bodies.

PORTUGAL

Solely the Parliament can empower independently to introduce changes to the approved budget for the judiciary, under proposal of the Government.

ROMANIA

The MOPF may reject the budget proposals as they grossly exceed the respective ceilings and forces the sector agencies to reduce their budgets. These cuts are made by the financial management departments in the MOJ and the PM, which use the following criteria: historical spending trends; preliminary spending for the current year; and the monthly expenditure average of each secondary chief of account. Because wage levels are established by law, cuts are made to goods and services and to capital expenditure. A budget that respects the initial established ceiling is then resubmitted to the MOPF for approval.

SERBIA

Ministry of Finance, after the opinion of the budget funds beneficiaries on the Draft budget, can independently make changes in the Draft budget.

REPUBLIC OF SLOVAKIA

The Minister of Finance may comment on the budget during the budgetary procedure.

SPAIN

The minister of finance and the Council of ministers (Government) are empowered to introduce changes to the draft budget of the ministry of justice. The Parliament has always the final decision.

2.1.8. What is the role of Parliament in the budgetary process for the judiciary?

ALBANIA

The draft budget of the judiciary, as part of the draft law on the state budget, submitted by the Council of Ministers to the parliament, is primarily discussed in the Parliamentary Committee for Legal Issues, Public Administration and Human Rights. Representatives of the judiciary participate and are present during the hearing session of this parliamentary committee to discuss and negotiate their budget requests. In some cases, the parliamentary committee has approved the request of the judiciary to increase its budget when it was previously reduced by the Ministry of Finance or the Council of Ministers.

Then, the draft budget, after being approved by the parliamentary commission, and all the relevant amendments, are submitted to the plenary session for adoption, as part of the draft law on the state budget.

BELGIUM

Democratic control of the use of the public means.

CROATIA

Passes the Act on the budget.

DENMARK

The Parliament has no role in the budgetary process. The role of the Parliament is in the passing of the Finance Act.

ENGLAND AND WALES

Parliament has the formal role annually of approving overall government expenditure. In reality, Parliament is not involved in the setting of the budget either for HMCTS or for the judiciary.

However, were he so minded, the Lord Chief Justice may make written representations to Parliament “on matters that appear to him to be matters of importance relating to the judiciary”. That could include the inadequacy of any budget proposed for HMCTS.

ESTONIA

The Parliament issues the State Budget Act.

FRANCE

See the answer to the question 2.1.6.

GERMANY

See above. As with the budget for all other ministries, it has to approve the budget by law. Parliament has no special role in approving the budget of the judiciary.

HUNGARY

It approves the budget of the courts as part of the Central Budget Regulations Act.

IRELAND

The budgetary allocation is voted on by the Parliament.

The role of Parliament is to approve the budgets presented by the Minister for Finance by way of a vote.

ITALY

The Parliament approve the state budget, so as proposed by the Government. Parliament to make changes, at the request of the Government or individual Ministers.

LITHUANIA

Already answered above.

MONTENEGRO

The parliamentary committee on finance can introduce changes of the specific budget lines in terms of amounts allocated. The plenary session of the Parliament then finally adopts the budget which also includes the budget for judiciary.

NETHERLANDS

See before. In the end Parliament formally approves the budget.

NORWAY

The budget proposal given by the Government (King in council) is voted for and approved by the Parliament.

NORTHERN IRELAND

The UK Government (Ministry of Justice) publishes the judicial salary scales and receives recommendations on judicial salaries from the independent Review Body on Senior Salaries (SSRB) i.e. recommendations on salary groupings and salary increases. For the past few years, the Government has accepted the SSRB's recommendation of a 1% increase to the salaries of the judiciary. Parliament is not involved in the setting of this budget. However the Lord Chief Justice may make written representations to the Northern Ireland Assembly on matters that appear to him to be matters of importance relating to the judiciary which could include budgetary issues (Constitutional Reform Act 2005 section 6).

POLAND

The Parliament can make changes in financial plans of individual appeals, and thus it can affect the volume of the determined budget.

PORTUGAL

Already answered above.

ROMANIA

The vote of the Parliament is the final and decisive stage of budget approval.

SERBIA

Parliament adopts the Law on the budget.

REPUBLIC OF SLOVAKIA

State budget for the corresponding budget year is approved by the National Council of the Slovak republic (Parliament) in the Act of State Budget.

SLOVENIA

The legal basis for the procedure for adoption of the budget are the Public Finance Act and the Regulation for the Basis and Procedures for the Preparation of the Proposal State Budget. The establishing of the budget may be shown through an eight step scheme: - Establishing of a macroeconomic framework - Specifying of the development priorities and tasks of the Government - Setting up of a framework cross section of the budget in accordance with the program and the plans - Budgetary Manual of the Ministry of Finance - Preparing of detailed financial plans of direct budget users - Negotiations with the Ministry of Finance - Governmental proposal of the state budget - Discussion and adoption of the budget and the Law on Execution of the Budget, within Parliament. The Supreme Court as the entity proposing the financial plans of all the courts has a specific role in this process. Although the Courts Act provides that “the volume of financial resources for the salaries of judges and judicial personnel, and for the operation costs of courts, shall be provided within the framework of the state budget of the Republic of Slovenia for all courts on the basis of financial plans of individual courts at the budget user, the Supreme Court of the Republic of Slovenia”, the Supreme Court has limited access to the first four phases, which are crucial. Once the priorities are set, it is impossible to reach important changes in the volume of financial resources during budget negotiations. During these four phases it is only the Ministry of Justice that can influence the decisions of the Government, but it has not sufficient knowledge of the needs of the courts, the Supreme Court has some influence only by informal ways. The Supreme Court enters the process between the fourth and fifth phase. It proposes a cross section of the budget quota specified by the Government, regarding the judiciary for the following two years. The budget quotas are determined on the level of individual courts, whereby in addition to the initial rules determined by the budget manual, the following criteria are also taken into consideration: - level of the financial plan of the user for the current year; - semester realization of the financial plan of the user in the current year. The Supreme Court also prepares internal manuals for the users as well as internal forms for budgetary items, which may reflect any additional needs for funds along with a short explanation, which is used as a basis for subsequent negotiations with the Ministry of Finance. Then, each court prepares its own financial plan within the framework of the assigned quota in line with the budget items up to the level of a sub-account and submits it to the Supreme Court. During this process job allocation schedules are also prepared, because they have to be adjusted to the proposed budget. The Supreme Court examines every court's financial plan proposal and based on the gathered data and internal forms with appropriate explanations which reflect the additional needs of the users, prepares a new assessment of the needed funds to facilitate a smooth operation of the courts within the following two years.

In addition, a complex analysis is prepared of the budgetary expenses and a dialogue is established between the users in regard to a concept for future negotiations. The negotiations with the Ministry of Finance may occur in several phases depending on the divergence between the posed requests on one hand and the possibilities or the constraints posed by Ministry of Finance. If the Ministry of Finance agrees, the additionally provided funds shall be distributed among the courts in line with the proposed priorities. However, if no agreement is reached, the proposed budget of the courts shall be submitted to Parliament, which takes the final decision.

The legal basis for the procedure for adoption of the budget are the Public Finance Act and the Regulation for the Basis and Procedures for the Preparation of the Proposal State Budget.

The establishing of the budget may be shown through an 8 step scheme:

1 - Establishing of a macroeconomic framewor

- 2- Specifying of the development priorities and tasks of the Government
- 3- Setting up of a framework cross section of the budget in accordance with the program and the plans
- 4 - Budgetary Manual of the Ministry of Finance
- 5 - Preparing of detailed financial plans of direct budget users
- 6- Negotiations with the Ministry of Finance
- 7- Governmental proposal of the state budget
- 8- Discussion and adoption of the budget and the Law on Execution of the Budget, within Parliament.

The Supreme Court as the entity proposing the financial plans of all the courts has a specific role in this process. Although the Courts Act provides that “the volume of financial resources for the salaries of judges and judicial personnel, and for the operation costs of courts, shall be provided within the framework of the state budget of the Republic of Slovenia for all courts on the basis of financial plans of individual courts at the budget user, the Supreme Court of the Republic of Slovenia”, the Supreme Court has limited access to the first 4 phases, which are crucial.

Once the priorities are set, it is impossible to reach important changes in the volume of financial resources during budget negotiations.

During these 4 phases it is only the Ministry of Justice that can influence the decisions of the Government, but it has not sufficient knowledge of the needs of the courts, the Supreme Court has some influence only by informal ways.

The Supreme Court enters the process between the 4 and 5 phase.

It proposes a cross section of the budget quota specified by the Government, regarding the judiciary for the following two years.

The budget quotas are determined on the level of individual courts, whereby in addition to the initial rules determined by the budget manual, the following criteria are also taken into consideration:

- level of the financial plan of the user for the current year;
- semester realization of the financial plan of the user in the current year.

The Supreme Court also prepares internal manuals for the users as well as internal forms for budgetary items, which may reflect any additional needs for funds along with a short explanation, which is used as a basis for subsequent negotiations with the Ministry of Finance.

Then, each court prepares its own financial plan within the framework of the assigned quota in line with the budget items up to the level of a sub-account and submits it to the Supreme Court.

During this process job allocation schedules are also prepared, because they have to be adjusted to the proposed budget.

The Supreme Court examines every court's financial plan proposal and based on the gathered data and internal forms with appropriate explanations which reflect the additional needs of the users, prepares a new assessment of the needed funds to facilitate a smooth operation of the courts within the following two years.

In addition, a complex analysis is prepared of the budgetary expenses and a dialogue is established between the users in regard to a concept for future negotiations.

The negotiations with the Ministry of Finance may occur in several phases depending on the divergence between the posed requests on one hand and the possibilities or the constraints posed by Ministry of Finance.

If the Ministry of Finance agrees, the additionally provided funds shall be distributed among the courts in line with the proposed priorities.

However, if no agreement is reached, the proposed budget of the courts shall be submitted to Parliament, which takes the final decision.

SPAIN

The role of the Parliament in the budgetary process for the judiciary is to approve the final budget by law. It has the same role as in the approval of the rest of state expenditures.

2.2 Is there an amount or percentage of the budget guaranteed for the Judiciary (if so, is it by law or by practice?)

ALBANIA

No, there's not a certain percentage of the budget allocated to the judiciary against the state budget or GDP. The analysis performed by Z.A.B.GJ has shown that, on average, the budget allocated to the judiciary is 0.5% of state budget expenditures or 0.14% of GDP.

Z.A.B.Gj and the High Council of Justice as participants in organized tables of experts where the Albanian justice reform is being discussed, have raised the need for a new approach to the funding of the justice system, and requested to be set by law a minimal level of funding for the judiciary to the extent of 0.8% to 1% of the total expenses of the state budget.

BELGIUM

No.

BULGARIA

No.

CROATIA

No.

DENMARK

No.

ENGLAND AND WALES

No.

ESTONIA

No.

FRANCE

No specific amount is guaranteed.

GERMANY

There is none, it is up to the executive and Parliament to draft the budget for the judiciary.

HUNGARY

There isn't. Generally speaking it isn't lower than the previous years budget.

IRELAND

There is no amount or percentage of the budget guaranteed for the judiciary.

ITALY

There is no amount or percentage of the budget guaranteed for the judiciary. However, there are fixed components, such as the salaries of judges and staff.

LITHUANIA

No, there isn't.

MONTENEGRO

No, but there are limits set by the Finance Ministry communicated to the Judicial Council in May altogether with the request for submission of budget proposal.

THE NETHERLANDS

No, the budget is determined by the number of resolved cases and the price of these cases.

NORWAY

There is no amount or percentage of the budget guaranteed for the judiciary.

NORTHERN IRELAND

No.

POLAND

No such a guaranteed sum exists. But there does exist at the statutory level (art. 112aa of the Public Finances Law of 27 August 2009) the so-called stabilisation expenditure rule (concerning the whole sector of public institutions), applied for the first time in 2015. According to this rule, the expenses are to grow at an average level close to the GNP growth level - during a good economic situation, the expenses are to grow a bit slower than the GNP, while they grow quicker during an economic slowdown.

Judiciary budgets for the years 2010-2014 contained the so-called disciplinary expenditure rule (art. 112a and 112b of the Public Finances Law), according to which budgetary expenses could not exceed total expenses in the previous year, plus the inflation index, plus one percentage point. There was also temporarily introduced a mechanism of freezing expenditures for remunerations.

PORTUGAL

No, there isn't.

ROMANIA

There is not an amount guaranteed for the Judiciary. Because the weights of the expenditure categories are kept relatively constant, increases in the justice sector budget are driven almost entirely by changes in staff costs (either personnel or wage policies).

SERBIA

No.

SLOVENIA

No.

REPUBLIC OF SLOVAKIA

No, the budget for the Judiciary is not guaranteed by law or by any other means.

SPAIN

There is not a certain percentage of the budget guaranteed for the judiciary related to GDP or any other macroeconomic similar reference.

2.3. Who sets the salary of judges and by what process? Are judges' salaries guaranteed? If so, how?

ALBANIA

Salaries of judges are stated in the Law on the Organization of the Judicial Power in the Republic of Albania. They are guaranteed by the Constitution in the Article 138 which states that "Salaries and other benefits of judges cannot be lowered. The funds required for this purpose are always ensured by the state budget.

BELGIUM

The salaries of the judges are determined by law (Code of Judicial Law – art. 355), voted and accepted by parliament and are consequently guaranteed.

BULGARIA

In the Judiciary Act - Art 218, is regulated the mechanism for setting the basic monthly salary for the lowest judicial, prosecutorial and investigative duties, amounting to twice the average monthly salary of employees in the public sector according to NSI data, as well as the basic monthly salary of the President of the Supreme Court of Cassation, the Supreme Administrative court, the Prosecutor-General of the Republic of Bulgaria and the Director of the National Investigation Service equal to 90% of the remuneration of the Chairman of the Constitutional Court.

Remuneration for other positions in the judicial bodies shall be determined by the SJC.

CROATIA

Salaries of judges are guaranteed by the Law on salaries of judges and other judicial officials.

DENMARK

Persons working in the state sector are as a general rule employed under collective agreements or as civil servants. Judges are employed as civil servants.

Since 1 January 2001, appointment as civil servants is confined to special positions. Accordingly, it is typically some groups of managers, judges as well as some police, prison and defence staff that are employed as civil servants. Other groups are typically employed on collective agreement terms. The employment terms for civil servants are laid down in the Civil Servants Act and the Civil Servants' Pension Act as well as determined by collective agreement.

The salaries for judges are regulated in a state agreement for all civil servants. In this agreement there are different levels. On which level Judges are placed have been negotiated between the Judges Association and the Ministry of Finance.

There are no individual negotiations of salary for Judges in Denmark. Any raises or supplements are given collectively after negotiations between the Judges Association and the Court Administration. The supplements will be based on objective criteria/functions.

ENGLAND AND WALES

Judicial salaries are set by the Government, acting through the Chancellor of the Exchequer and the Lord Chancellor. The Government is required to consider recommendations made to it by an independent body called the Senior Salaries Review Body ("SSRB") but the Government is not obligated to follow the recommendations of SSRB, and has in the past on several occasions declined to do so. SSRB will canvass the views of the judiciary, and of Government, before making its recommendations which are published in an annual report.

ESTONIA

A judge's salary is provided by the High-Ranking State Public Servants Salaries Act. The highest rate of salaries of public servants is at the moment 5200 euros. Supreme court judge's salary coefficient is 0,85. Circuit court (2nd instance courts) judge's salary coefficient is 0,75. For judges of county courts and administrative courts (1st instance courts) it's 0,65. Chairmen of courts receive additional remuneration for the performance of the duties of chairman.

FRANCE

According to the constitutional law on the status of judges, their salary is defined in a decree by the cabinet. This decree specifies at each hierarchical level the average salary. There is no guarantee, but so far there has never been any decrease. The exact amount is calculated on the basis of the seniority and function through a system of official index points. Additionally, since 2003, judges and prosecutors receive a flexible remuneration determined by the chief of court.

GERMANY

The salaries of judges in federal courts and in the courts of the Länder are regulated by law (for the federal level and each Land separately).

The basic salary is the main element of remuneration; it is determined in accordance with the pay grade of the office held. It is therefore not a matter of which function the judge or prosecutor actually performs, but solely

of the pay grade of the office assigned to him/her. The offices and their pay grades are governed by the Federal Remuneration Schemes or by the Land Remuneration Schemes, which are laws.

In all German Länder, the remuneration of judges and prosecutors is closely interconnected with the salaries of government employees (Beamte) with a formal university training (teachers, administrators, engineers ea.). However, considering their special position and duties within the state judges' and prosecutors' salaries are fixed in a special salary scale which slightly differs from the salary scale of government employees. Recently the federal

constitutional Court gave a ruling about the indispensable criteria for a minimum salary for judges guaranteed by the constitution.

The legal instrument to adjust the income to a general pay increase or inflation is proposed by cabinet and approved by Parliament for all state employees.

HUNGARY

The judicial salaries, remuneration and allowance are determined in the Act CLXII of 2011 on the legal status and remuneration of judges of Hungary, which is accepted by the Parliament with 2/3 majority.

IRELAND

Judicial salaries are set by the Government.

As part of the constitutional independence of the judiciary, the Constitution provides that judicial salaries can only be reduced in very limited circumstances i.e. when the remuneration of other public servants has been reduced by a law which is stated to be in the public interest and even then any cuts to judicial pay must be proportionate to the reductions imposed on the public service generally.

ITALY

Judicial salaries are set by law and they are adjusted by the President of the Council of Ministers every three years related to the amount of the wage growth in other areas of public administration.

The salaries can be changed by a parliament law only.

LITHUANIA

In Lithuania judges' salaries are guaranteed by the Law on Courts and the Law on Remuneration of Judges.

Article 96 (Judges' Remuneration) of the Law on Courts provides that judges' remuneration shall be established by the law and during the judge's tenure it shall be prohibited to reduce his/her remuneration or any other social guarantees, with the exception of cases provided by this Law. Article 50 of the Law on Courts provides that the State shall guarantee, by financial and organizational technical measures, adequate conditions of work for judges and courts.

The Law on Remuneration of Judges determines the salaries of judges and their calculation procedure:

Article 3 of Law on the Remuneration of Judges provides that the salary of judges is calculated by using the **base rate** which is approved annually by the Parliament on the offer of the Government. While determining the base rate for the next year the following factors shall be taken into account:

- proposals of organizations representing the interests of judges;
- average annual inflation rate (of the last year);
- other factors influencing the amount of the salaries of persons working at budgetary institutions (public sector).

The base rate for the next year shall not be lower than the base rate determined for the current year, with an exception of cases of essential deterioration of economic and financial situation in Lithuania.

Article 4 of the Law on Remuneration of Judges provides the calculation method - the remuneration of judges working at the courts of general jurisdiction and specialized courts shall consist of:

- 1) **basic salary** (= coefficient of basic salary x the base rate); and
- 2) **long-service pay** (additional pay (bonuses) for the length of service to the State of Lithuania).

The data related to remuneration of judges is publicly available.

The basic salary of judges working at the courts of general jurisdiction and specialized courts shall be calculated **by multiplying the appropriate basic salary coefficient**, set in the Annex to the Law on Remuneration of Judges **by the base rate** (approved annually by the Parliament as indicated above).

The long-service pay. Article 5 of the Law on Remuneration of Judges provides that a long-service pay paid to judges working at the courts of general jurisdiction and specialized courts shall consist of 3 % of the basic salary for every three years; however, the total amount of the long-service pay shall not exceed 30 % of the basic salary.

The one-off premium (lump sum). Article 6 of the Law on Remuneration of Judges regulates the one-off premium (lump sum). It is determined that the one-off premium shall be paid to judges working at the courts of general jurisdiction and specialized courts for the overtime, the work on holidays and public holidays while implementing the functions assigned to judges by procedural laws. The one-off premium shall be paid at the end of the year. The calculation method and conditions for paying the one-off premiums is determined by the Judicial Council.

From May 2009 until October 2013 the salaries of the judges and other public servants were reduced due to the financial crisis. In 2015 the new Law on Refund of the wage (salary) to persons who are paid for their work from the state or municipal budget, which was disproportionately reduced due to economic crisis was adopted which establishes the rules for compensation during the period from 2016-2020.

MONTENEGRO

The Law on salaries of holders of judicial and the Constitutional court judges' office sets the salary of judge. In addition, the Decision on setting the value of coefficients of the fixed part of the salaries in judiciary has also been adopted.

THE NETHERLANDS

Salaries are negotiated between the ministry of Justice and the "trade union" of judges. The council plays no role in this. Increases in salaries should lead to higher prices of the cases in the negotiations between Council and ministry.

NORWAY

The judges salary is set by the Ministry of Local Government and Modernisation (on the behalf of the government). The NCA is given an opportunity to make a suggestion before the salary are set.

The judges salaries are guaranteed because the cost of higher wages are annually compensated in the budget for the Judiciary.

NORTHERN IRELAND

The SSRB provides independent advice to the Prime Minister, the Lord Chancellor, the Secretary of State for Defence, the Secretary of State for Health and the Home Secretary on the pay of senior civil servants, the judiciary, senior officers of the armed forces, certain senior managers in the NHS and Police and Crime Commissioners and chief police officers.

No.

POLAND

Guarantees referring to remunerations of judges are imposed both at the level of the Constitution (Commonly) and in the Common Courts System Law. Art. 178, item 2 of the Constitutes states that: "Judges are ensured work conditions and remunerations meeting the official dignity and the scope of their duties". This provision is implemented by means of detailed provisions of the Common Courts Law, which relate salaries of judges with average remunerations. To this end there were determined 10 rates of basic remunerations, depending on the position (a District, Circuit or Appeal Court Judge), the work experience in the given position (0-5, 5-10, 1-15, and >15 years) and the general duration of work experience. A respective multiplier refers to each rate (from 2.05 up to 3.23) in reference to the average remuneration in the second quarter of the previous year as announced in the Official Journal of the Republic of Poland "Monitor Polski" by the President of the Central Statistical Office (Polish: GUS). If the average remuneration is lower than the average remuneration announced

for the second quarter of the previous year - there is assumed a basis for the determination of the basic remuneration for judges at the value applicable so far. Rates of the remuneration of Voivodship Administrative Courts' Judges are the same as rates for Appeal Courts' Judges, while in case of the Supreme Administrative Court and the Supreme Court - they are respectively higher.

Since 2010 there has been temporarily introduced the mechanism of freezing expenses for remunerations, but concerning first of all administrative employees of courts. Thus draft budgets of Common courts could secure funds only for salary increases shaped on the above described rules, remunerations of judges and salaries of referendaries related to them, as well as emoluments for retired judges.

PORTUGAL

The judges salaries are established by the law – Statute of the Judiciary Magistrates. Only by law, approved by the parliament, can the salaries be modified. In the Laws that approved the state budgets for the years of 2011 and forward, the salaries of the judges and of others public servers were reduced, due to the financial crisis.

ROMANIA

Judges' as well as prosecutors' salaries are set out by law, the same law as for other public officials. There is no formal guarantee and the amendments of the law may bring changes in the salaries of judges and prosecutors.

Thus, similar to most of the countries, in Romania judges' salaries are regulated by law and if by being regulated by law we mean guaranteed by law.

As previously answered, even provided by law changes in judges' salaries may occur; in such situations only legislative amendments may bring such modifications (both increases and decreases of the salaries) of the salaries of judges and prosecutors.

Moreover, according to the minutes of the previous meeting, we've noticed that the interpretation of this expression was subject of debates and the conclusion was that the text referred to the salaries not the level of salaries and that the question should be amended in order to emphasize that the reducibility of judicial salaries should only be allowed by law rather than by decisions of the Executive.

SERBIA

According to the Law on judges the salaries of judges are established on the basis of the basic salary which is established by multiplying the coefficients for calculation and payment of salaries with the base for calculation and payment of salaries.

The base for calculation and payment of salaries of judges shall be established in the Law on Budget.

The coefficient for calculation and payment of salaries is established by classifying each judge into one of five salary groups.

The Law on Judges provides that judge has the right to a salary adequate for his/her elected position in accordance with the dignity of the judicial function and its responsibility, which means a guarantee of its independence and the safety of his family.

SLOVAKIA

The judges are entitled to the salary which is guaranteed by the Act on judges and lay-judges, i.e. base judicial salary together with other bonuses pursuant to the law. Base judicial salary is the salary equal to the salary of Member of the National Council monthly, which is 3 x average monthly wage of employee in economy in Slovakia for the previous calendar year.

In recent years, however, judges' salaries are not rising in line with the rise of wages of employees in economy, but remain the same as in previous years. That is because of governmental budgetary constraints and legal restrictions.

SLOVENIA

The salaries of the judges are guaranteed (set) by law (the Courts Law, the Judicial Service Law and laws, governing the salaries system in public sector).

SPAIN

The salary of judges is regulated by law (Law 15/2003 regulating salaries of judges and prosecutors) and approved yearly by the Parliament when passing the annual budget.

The system considers the following principles: objectivity, fairness, transparency and stability.

It has a fixed component and a variable one. The fixed component is formed by the basic remuneration (salary and seniority) and complementary remuneration (concerning the population, representativeness, and complexity of the job-related). The variable snap by objectives is related to performance accredited by each judge, according to modules laid down by the General Council for the Judiciary. The remuneration of judges and prosecutors is related to the salaries of civil servants but slightly different from the salary scale of government employees.

2.4. Who provides funds for the Judiciary? Do they include court fees? How are these fees evaluated?

ALBANIA

Funds for the judiciary for operating expenses, salaries and investments are also guaranteed by the state budget. In addition to these funds, the courts can use up to 10% of their revenues (fees for court services). The other 90% of the revenues go to the state budget. The amount that the courts may use from the court fees constitutes 2% of the annual budget of the judiciary. Court fees are stated by a joint decision of the Minister of Justice and the Minister of Finance.

BELGIUM

The funds are provided by the state. The users of lawsuits make a very low contribution by paying a small fee depending on the value of the litigation.

BULGARIA

The funds of the judiciary budget are provided by the central budget, which include revenues from court fees and subsidies. The fees are determined by the Tariff № 1 of the Law on State Fees, collected by the courts, prosecution, investigation services and the Ministry of Justice. The ratio of the incomes over the subsidy is 42%.

CROATIA

Funds for the judiciary do not include court fees because court fees are being paid into to State budget by parties in dispute. Court fees are stipulated by the Law on Court Fees and they are paid by the value of dispute (value of the main requirement without interests and costs).

DENMARK

The Judiciary is financed by the state budget alone. Some court fees are sent directly to the Ministry of Finance, other to the treasury. The total amount of court fees have no impact on the budget.

ENGLAND AND WALES

Judicial salaries and pensions are part of the overall cost of HMCTS which is itself funded in part by a budget from the Ministry of Justice and in part by the retention of court fees.

Court fees are set by the Lord Chancellor, with the agreement of HMT.

ESTONIA

The funds are allocated according to agreements between Ministers and as stated in the Stage Budget Act.

FRANCE

According to the Finance Bill, the Ministry of Finance provides funds which include court fees.

GERMANY

Court fees are revenue for the state and part of the general budget.

They are fixed by the federal legislature by taking into account the interest of the Länder in generating state income and the political interests of the Federal Government in open access to courts for everybody. In criminal proceedings, fees related to the proceedings will arise in an amount stipulated by law, while the amounts of fees charged in other court proceedings will be primarily oriented by the amount in dispute or the transaction value.

Funds for the judiciary are coming out of the general budget. In some of the German Länder (e.g. Bremen) exists a special fund for the judiciary. In Bremen EUR 379,000 of the planned expenditures itemised in the budget for the justice system are subsidies made available from the European Regional Development Fund (ERDF) for projects serving the qualification and social reintegration of people who have come into conflict with criminal law.

HUNGARY

The base of the budget is ensured by the central budget. The duties are parts of the central budget, they are not included in the budget of courts. The duties are defined by law.

IRELAND

Judicial Salaries are paid directly by the Central Government funds. Other funding for the courts and the judiciary is met from the Courts Service Budget. Court fees are included in the Courts Service Budget. The Court Service Board may recommend appropriate scales of court fees and charges to the Minister for Justice and Equality who is responsible for setting court fees.

ITALY

The State in general allocates the funds for the judiciary directly to the Ministry of Justice. Legal costs are governed by special rules and are included in a special chapter of the budget.

LITHUANIA

In general, the funds for the Judiciary come exclusively from the State budget. The court fees and fines are the State revenues (only the fees for making copies of court cases comes into the court budgets). Court fees are established by laws.

MONTENEGRO

Funds for the judiciary are provided from the general state revenues. Court fees are making part of the state general revenues. The court fees are set by the Law on Court Fees.

THE NETHERLANDS

The taxpayer pays the Judiciary. Court fees do exist but they are not meant for the Judiciary. They are a mean of income for the ministry of Justice. The Judiciary only collects the fees.

NORWAY

The funding/financing for the Judiciary is allocated through the budget process explained earlier. To the end of the process it is the Parliament who approve the budget.

The NCA is involved in evaluation of the court fees.

NORTHERN IRELAND

The Executive

Yes, judicial salaries are funded in part by civil court fees.

These are evaluated by the NICTS with the agreement with the Department for Finance and Personnel. The NICTS is currently reviewing its civil fee structures.

POLAND

One of the sources of financing courts' activities includes their revenues (e.g., from court fees that are paid to the cash desk in the courts or into the courts' bank accounts) defined in the draft budget in the form of a forecast of their volume, while the basic course of financing includes expenses from the budget constituting a limit not to be exceeded.

PORTUGAL

In general, the funds for the judiciary come exclusively from the state budget. The court fees, applied by the judge according to the law (the Court Fees Act), are state revenues.

ROMANIA

Justice sector institutions are completely dependent on the MOPF for financing. All court-generated income—less than 1 percent of the budget—goes straight to the state budget in accord with the Public Finance Law 500/2002.

As the minute of the previous meeting mentions the need for clarifications in terms of court fees' regime we can add the following: according to our legislation (Emergency Ordinance 80/2013 art.40 para 1 and 3), court fees are paid directly in the local funds and they are included in the state budget as follows: 70% remain in the local budget and 30% are transferred in the special account of the state budget.

SERBIA

Funding for the judiciary shall be provided by the Law on Budget of the Republic of Serbia; from the general budget revenues and from its own revenues-court fees.

The Law on court fees determines the amount of court fees that are available to the courts.

SLOVAKIA

Government of the Slovak Republic. Court fees are revenues of state budget and do not affect the determination of the budget of the courts.

SLOVENIA

In Slovenia there is a system of integral budget and from integral budget funds are provided to the budget users – for the Judiciary at the Supreme court and at the Ministry of Justice.

SPAIN

The Ministry of justice, justice departments in the autonomous territories and the General Council for the Judiciary provides funds for the judiciary.

Salaries of judges and prosecutors are paid centralized directly by the ministry of justice. The autonomous territories do not have any role in this task.

Funds for the judiciary include fees and are regulated by law (Law 10/2012. Justice administration fees law). Fees are part of the general budget

3.Management of the allocated budget or Administration of the agreed budget

3.1. Who decides on this administration? (Ministry, high Council, courts?)

ALBANIA

The budget for the judiciary is administrated independently by the Office for the Administration of the Judicial Budget and its Board for the first instance and appeal courts, by the High Council of Justice for the HCJ and by the Supreme Court for the Supreme Court.

BELGIUM

Up till now: the Ministry. In the near future: the courts.

BULGARIA

The Supreme Judicial Council shall organize and control the execution of the budget of the judiciary.

CROATIA

The court president decides on the administration within the allocated funds and the Ministry of justice decides on the administration regarding capital investments.

DENMARK

The budget is allocated to the Court Administration and the Court Administration decides on the further allocation and management of the budget.

ENGLAND AND WALES

The administration of all matters relating to HMCTS (including that of its budget) is in the hands of its Board which comprises an independent chairman, four executive board members, three non-executive board members and three judicial board members. The Board operates on the principle of unanimity. Were the Board unable to decide an issue, which could include how to allocate funds, that disagreement would be referred to the Lord Chancellor and Lord Chief Justice who would jointly decide the matter in question. The Board has not yet failed to reach an agreement and, accordingly, has not yet had to escalate a disagreement to the Lord Chancellor and Lord Chief Justice.

ESTONIA

The Ministry of Justice administrates the budget of 1st and 2nd instance courts. The Supreme Court administrates its own budget.

FRANCE

The Ministry of Justice decides on the allocation for each court.

GERMANY

The ministries of Justice of the federation or the respective Länder (other ministries according to the specialization of courts) administer the budget resources, with the exception of the Federal Constitutional Court and the Constitutional Courts of the Länder, which has granted organizational autonomy as an independent constitutional organ.

In some of the Länder there are so-called “budgeting-models” which represent an increasingly growing form of judicial self-governance, especially in the courts of the Länder. “Budgeting” here refers to the decentralized and independent management of budget funds by the courts. Each court is allocated a certain amount of funding to administer independently. While such funding is derived from total justice budgets of the respective Länder, the courts may nevertheless dispose of the fund independently without outside influence. This budgeting procedure enables courts to make independent decisions on personnel and material budgets and especially on setting priorities for the expenditure of funds. Not least, available funds can therefore also be employed in a more targeted and economical manner. The concrete regulations (i.e. allocation, control etc.) of these budgeting models are different from Land to Land.

For example in North Rhine-Westfalia the project EPOS.NRW was launched in order to initiate a reform of the budgetary system in place. By way of modernising the budget and accounting system, the administrative services of the Land of North Rhine-Westfalia are introducing the integrated budgeting and accounting system (Integrierte Verbundrechnung) in a staged procedure; this includes the components: capital accounting, economic outturn accounting, cost/performance accounting, and financial accounting; this integrated system forms the basis of a product-oriented budget management. It is intended to roll out the system throughout the Land administrative services by 2017. The first courts in North Rhine-Westfalia have started to run the new accounting system in April of 2015. From October of 2015 until April of 2016, the courts of law and the public prosecutors’ offices are to successively follow suit.

HUNGARY

The president of the NOJ, who is also the leader of the chapter governing body. She may make transfers during the year, she may reallocate the appropriations of the Curia to the budgetary bodies of its chapter with the agreement of the president of the Curia, except the reallocations which concern the staff number appropriations of the budgetary bodies. She also deals with the financial management tasks of the Courts chapter.

IRELAND

The administration of the Budget is a matter for the Courts Service.

ITALY

In Italy, the main responsible for the management of the judicial budget at national level is the Minister of Justice, while the funds allocated to the Council of the Judiciary are managed by the Council itself.

LITHUANIA

As indicated in the answer to the first question of this Questionnaire (see also Table 1), the (overall) budget financing the Judiciary consists of the following components:

- **Budgets of the Courts** – each court has its own budget and administers the allocations independently as a separate appropriation manager. It is worth to mention that specific trainings on strategic planning and administration of courts are foreseen and provided to the Chairpersons of courts so as to improve their competences and skills in the effective management of courts.
- **Budget of the National Courts Administration (NCA)** has its own budget and administers the allocations independently as a separate appropriation manager;
- NCA also administers the programme of **Centralized maintenance of courts**, which consists of allocations for the needs of courts financed in a centralised manner. This Programme is part of the budget of the NCA; however, it has some specifics as the programme estimate shall be firstly co-ordinated with the Judicial Council, and only then approved by the Director of the NCA. Moreover, its funds must be used exclusively for the benefits of courts. It is administered by the NCA, which is accountable for administration and implementation of the Programme to the Judicial Council (in practice, the respective Committees of the Judicial Council, such as: the Budget and Investment as well as the Training and International Cooperation Committees, help in administering the programme). The drawing up and administration of the programme is regulated under the “Description of the procedure for drawing up estimated of the programme Centralised maintenance of courts and for supervision of its implementation”, approved by the Director of the NCA.

MONTENEGRO

Administration of the allocated budget in general goes like this: The Finance Ministry allocates funds to the Judicial Council which then allocates funds to the courts.

THE NETHERLANDS

The Council for the Judiciary allocates the budget over the courts.

NORWAY

The administration of the approved budget from the Parliament, is a matter for the NCA and its Board.

NORTHERN IRELAND

The courts through the NICTS Management Board which reports to the DOJ's Departmental Board.

POLAND

The National Council of the Judiciary decides on the execution of its own budget only.

In case of administrative courts - the President of the Supreme Administrative Court has capacities of the minister competent for public finances matters in the field of the execution of budgets of Supreme and Voivodship Administrative Courts.

In case of the Supreme Court - the 1st President of the Supreme Court has capacities of the minister competent for public finances matters in the field of the execution of the Supreme Court budget.

In case of Common courts, the Director of the Court of Appeal performs tasks and competences concerning budgets of the courts in the field of appeals and controls the financial and asset management referring to finances and assets of the State Treasury by the courts.

The Director of the Court of Appeal is directly subjected to the Minister of Justice, the Director of the Circuit Court is subjected to the Director of the Court of Appeal, while the Financial Manager of the District Court is subjected to the Director of the given Circuit Court. If no Financial Manager has been appointed in the given District Court, its President will be in charge of managing its financial matters

PORTUGAL

In Portugal, the main responsible for the management of the judicial budget at national level is the Minister of Justice. He is responsible for infrastructure management (buildings, computer system, furniture, etc.) and the appointment and payment to judicial officials of 1st instance courts. He is also responsible for the training of the future magistrates (judges and prosecutors). With regard to the issues that are covered by the budgets of the Supreme Judicial Council, the president of this body (which is also the President of the Supreme Court), is the primarily responsible for managing the budget.

In the superior courts, in regard to the issues that depend on their budgets, the president is the main responsible. In the Judicial High Council and in the supreme courts there are administrative councils to support the decisions.

In the courts of 1st instance, the budget is managed by the judicial administrator, in cooperation with the Ministry of Justice.

ROMANIA

The majority of the justice sector budget—around 65 percent—is executed by the MOJ, which administers the budgets of the courts. The PM is the second largest entity averaging around 30 percent, and the HCCJ and SCM each about 3 percent. These ratios have been relatively consistent since 2008.

SERBIA

Funds allocated for the work of the courts are governed by the High Judicial Council, the Ministry of Justice and at by the courts themselves.

REPUBLIC OF SLOVAKIA

The Ministry of Justice decides on the administration of the budget on the basis of documents prepared by the courts and budgetary requirements of the courts with the with the exception of the Supreme Court, which has the status of budgetary chapter.

SLOVENIA

The Supreme Court.

SPAIN

The Ministry of justice, justice departments in the autonomous territories and the General Council for the Judiciary decide on budget administration allocation. The Ministry of justice performs its managerial competences by territorial managers.

The main function of the General Council for the Judiciary is the management of Justice together with the protection or the guarantee of independence of Judges and Courts, when they perform their judicial function regarding to the rest of powers of the State and before all of them, even regarding to the other judicial bodies and those of the Judiciary per se.

The Council is in charge of tasks of an administrative/governance nature and of internal procedure of the Judiciary. The internal governance of the Courts is also performed by the governance chambers of the Supreme Court, the National Court and the different High Courts of Justice, without prejudice of the functions that correspond to the Presidents of these Courts and to the holders of other judicial bodies regarding to their own organic sphere. However, the Council performs the revising function of the proceedings carried out by these governance bodies.

The obligations of the Council are extended to those questions affecting the governance and the internal administration of the third power of the State: the appointment and promotion of Judges, together with administrative situations, leaves, permits, prohibitions and incompatibilities; the inspection of Judges and Courts, and the judicial disciplinary system.

Added to these scopes of competences we can find, from one side, that referring to the selection and training of judges, taken on in 1994, and, from another side, the improvement of the quality of Justice regarding to the assumed fundamental right to an effective judicial protection.

3.2. How do you allocate funds?

ALBANIA

Z.A.B.GJ. proposes the allocation of the funds approved by the law for each court and submit its proposals to the Board. Is funds allocation are approved by the Board, and then they are sent out to each court for implementation.

The budget allocated to the High Council of Justice and Supreme Court is approved in the budget law, these institutions are responsible of managing their own budget.

BELGIUM

Determined by the Ministry without consulting High Council nor the courts.

BULGARIA

By the Law on State Budget of the Republic of Bulgaria for the respective year the budget is allocated to the judicial authorities, as the funds of the courts are allocated by the SJC.

CROATIA

Funds are allocated to the courts based on their needs within the budgetary limits

DENMARK

The main part of the budget is allocated directly to the courts (between 75-80 %). The courts pays the salary of the court personnel (incl. the judges) and the daily expenses (rent, cleaning, security and other operating costs) out of this local budget.

The remaining budget (between 20-25 %) is managed by the Court Administration for central budgetary posts such as IT, training, new buildings and specific projects.

ENGLAND AND WALES

Ultimate responsibility rests with the HMCTS Board. The cost of judicial salaries is determined at a national level by HM Government. Most of the budget for the courts and tribunals is allocated to the seven regions which then individually decide what should be spent locally on the employment of staff, the provision of buildings and so on.

ESTONIA

The funds are allocated taking in consideration the funds allocated for the judiciary and the needs of each courts.

FRANCE

Funds are allocated to Courts according to specific criteria.

GERMANY

The amount allocated to each court is fixed by the ministry in close coordination with the courts, depending on the size, workload and importance of the respective court.

HUNGARY

The president of the NOJ decides about the division. President of each court ensures the the necessary staff and facilities for the effective performance of the functions of the Court, direct the financial activities of each courts. The presidents of the Administrative and Labour Courts and the presidents of the Dictrict Courts fulfil these tasks regarding the characteristics of the courts. The presidents task is the financial management within the limits of the financial framework, it has right of remittance and commitment, but the expenses beyond the normal operation and the maximum amount which is determined in the organisational and operational regulations, needs prior written permission from the president of the Regional Court.

IRELAND

Following the annual allocation to the Courts Service by Government, a draft budget is prepared and submitted to the Board for approval setting out specific allocations under the various expenditure headings i.e. staffing, accommodation, ICT, court services etc.

ITALY

No respons.

LITHUANIA

All courts submit their budget proposals/ allocation needs for the next year. The Judicial Council applies in writing to the Ministry of Finance and the Government for the needs of all courts. The Ministry of Finance submits an allocation proposal in one sum for all courts. The NCA prepares a draft for distribution of budget allocations to each court according to the rules and criteria set up in the “Description of the Criteria for the

Distribution to Courts of Provisional Maximum State Budget” approved by the Judicial Council and submits the draft to the Judicial Council for consideration.

The Judicial Council approves the distribution of budget allocations to each court by the Judicial Council’s resolution and submits it to the Government and the Ministry of Finance. That distribution of budget allocations to each court is incorporated into the draft of the State budget submitted to the Parliament.

MONTENEGRO

See above.

THE NETHERLANDS

Performance budgeting.

NORWAY

The courts make independent budget proposals which are submitted to the Norwegian Court Administration (NCA). The different proposals are taken into consideration when NCA and its board, decides on the budget of the courts. An amount of the funds are set aside for investments in IT, competence training and other common activities and costs.

NORTHERN IRELAND

Funds are allocated by the NICTS Board. Individual budget holders (such as for the OLCJ) are accountable to the NICTS Accounting Officer (its Chief Executive) for the management of their budgets by completing regular monitoring exercises reviewing actual expenditure against planned expenditure.

POLAND

The funds are divided according to a plan drawn up in advance. As far as common courts are concerned, tasks of the person disposing of the funds (here: the Minister of Justice) include also the preparation of a time-schedule of the state budget realisation upon an agreement with the Minister competent for public finances.

PORTUGAL

No respons

ROMANIA

No response.

SERBIA

The High Judicial Council, as well as the Ministry of Justice perform the allocation of funds of the courts within the appropriations approved by the Law on Budget.

REPUBLIC OF SLOVAKIA

The Ministry of Justice shall allocate funding for the courts that are related by their revenues and expenditures to the budget of the Ministry. Budget resources for district courts in the district of the respective regional court shall be allocated by this regional court from budget resources allocated to it by the Ministry of Justice.

The allocation shall take into account the requirements of the courts indicated in the bases for the draft budget.

SLOVENIA

Funds are allocated on the basis of the realised costs at the specific court over past years.

SPAIN

Funds are allocated considering the number of judges, prosecutors and staff. Taking into consideration the size and the workload of the courts in order to provide judges with enough resources to make their task efficient.

3.3. What are the criteria for allocating funds?

ALBANIA

In the Supreme courts the funds are allocated based on the needs presented by each department in the drafting phase of the budget. In the High Council of Justice the funds are allocated based on the needs presented by the administrative structures and the Inspectorate of the High Council of Justice in the drafting phase of the budget. The main criteria taken into account while allocating the budget funds for each court are:

- The number of judges and court administration staff for each court and their respective salaries as stated in legal acts
- Number of cases adjudicated by each court;
- Short term and midterm priorities for the development of the judiciary;
- The needs presented by each court;
- The performance of the budget in previous years.

Regarding the criterion related to the number of adjudicated cases by courts, Z.A.B.GJ conducts periodic annual analysis of their current expenses which are related with their daily activity. On the basis of these analyzes, temporary standards are developed for main items of these expenditures as an average of the annual amount spent for an adjudicated case in a year. These standards are used by Z.A.B.GJ during the drafting process of the budget and its implementation.

BELGIUM

Evolution of the costs but within the limits defined by government

BULGARIA

The funds are allocated under the unified budget classification of revenue and expenditure paragraphs in accordance with the provisions of the Public Finance Act, the Decree on the implementation of the budget for the relevant year, Instructions by the Ministry of Finance and others.

CROATIA

Proposals of the presidents of the courts, outstanding limits, last years' budgets

DENMARK

The Court Administration has 2 models of resource allocation to the courts.

One regulates the resource allocation in regards to the salaries to be paid by the court in question. This model consists of 4 elements:

- A basis grant to meet the judges salaries
- A flexible pool of 25 judges to be divided between the courts on the basis of the expected (forecasted) activity (the number of weighed cases per judge)
- A case dependant grant based on the expected (forecasted) activity (case-weighted) of the court in question
(this grant is used to pay the salaries of deputy judges and administrative staff)
- A grant to meet special circumstances and individual requirements

The other model regulates the resource allocation in regards to other expenditures. This model consists of 3 elements:

- A basis grant to meet rent, energy costs, cleaning costs, and other property-related expenses
- A case dependent grant based on the expected (forecasted) activity (case-weighted) of the court in question
- A grant to meet special circumstances and individual requirements

ENGLAND AND WALES

Much of the budget is effectively fixed i.e., judicial salaries, estate (building) costs and so on. Where there is an element of flexibility, the allocation of funds is determined in part by previous allocations, in part by caseload, and in part by timeliness.

ESTONIA

There is an ongoing reform concerning the court budgets and judicial performance indicators. Agreements have to be adopted at the budget negotiations between the Ministry of Justice and the courts concerning the efforts that need to be undertaken in court to clear the backlog and accelerate proceedings. According to performance indicators that agreed supplementary budget resources are allocated to the court.

FRANCE

Quantitative indicators concerning the activity of the Courts during the previous year, number of cases, judges, amount of fees, length of procedures.

GERMANY

The budget from preceding years (staff requirements and material expensens), requests from the courts for special expenditure (eg. refurbishing of courts rooms) and political decisions taken at ministerial level (eg. electronic equipment for courts).

HUNGARY

The volume of the priority issues of each courts, the quantity and consistency of the personell, and the court related necessary investments.

IRELAND

Funds are allocated by the Board to support the administration of justice and ensure access to justice for court users. The support of court sittings and the provision of core court services are prioritised in the allocation of funding. Regard must also be had to Government policy in decisions in relation to the allocation of budgets. For example, investment is required for the development of ICT systems in the Courts Service to provide the facility for payment of fines pursuant to the Fines (Payment and Recovery) Act 2014. The aim of this Act is to reduce the number of prison committals for the non-payment of court-ordered fines. Once commenced, the Act will allow for the payment of fines by instalment.

ITALY

The funds are allocated to the budget of the Ministry of Justice.

The funds are allocated on the basis of the size of the individual courts, the issues of offices and the contacts with the Heads of the Courts who can draw the attention on particular matters of the local reality.

LITHUANIA

The criteria for salary issues are set by the laws adopted by the Parliament and the governmental resolutions: the salaries of the judges are regulated by the Law on the Salaries of Judges; and the salary regulations for the court staff are the same as for all public servants and other personnel in the public sector. The courts' needs for allocations for other expenses consist of: need for allocations for utility services, need for allocations for communications, need for allocations for training, need for allocations for transport maintenance and business trips, need for allocations for printed matter, need for allocations for other goods and services. The courts' needs for allocations for utility services and for communications depend on the factual expenses. The minimal needs for allocations for training are set by the Law on Courts and the Law on the Public Service. The needs for allocations for transport maintenance and trips, for printed matter, for other goods and services are determined according to the applications and calculations submitted by the courts to the NCA, the forms of applications are provided to the courts by the NCA. If the total proposed amount of the budget allocations for all courts is lower than the calculated needs of the courts for allocations, when a percentage coefficient for covering the needs is applied and determined for each group of expenses separately according to averages and priorities.

MONTENEGRO

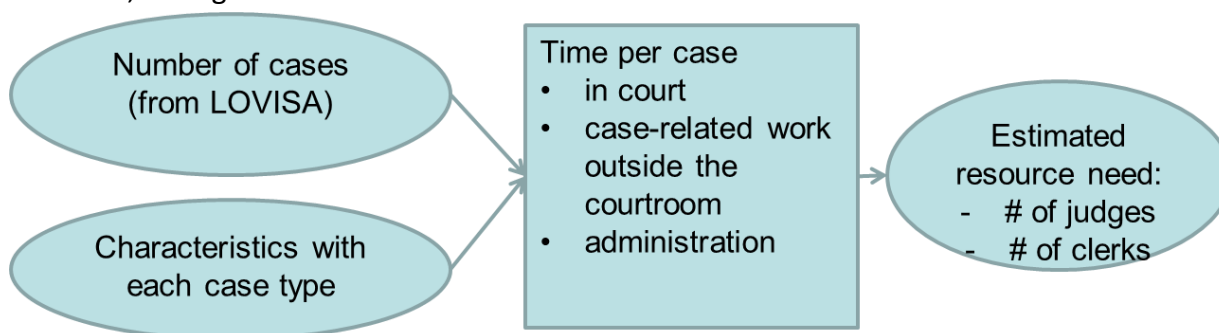
Funds are allocated in line with criteria set by the guidelines for macroeconomic and fiscal policy.

THE NETHERLANDS

Number of cases resolved combined with the workload per case. We distinguish app. 70 types of cases each with different prices.

NORWAY

The allocation of resources are mostly dependent on the need of labour for the different courts. It is developed a model which estimates the need of employees – Resource Allocation Model. The model calculates the need of labour, see figure.



Resources are not allocated directly on basis of the information in the case management system. To a large extent, the budget allocation is similar to previous years. However, The National Court Administration has a model that can estimate the number of staff (judges and clerks) needed in each District Court and each Appeal Court. Results from model calculation constitute part of the decision basis whenever changes in the number of staff are considered, for instance in the budget process if a court applies for more resources.

NORTHERN IRELAND

The judiciary does not have direct control of the allocation of funds. Funding is provided to the Northern Ireland Executive from the UK government as a block grant. Each department within the Executive is provided with a spending allocation. NICTS as an Agency of the DoJ obtains its funding through the government estimate process. The NICTS submits an overall bid to the DoJ which is considered as part of the Department's spending allocation. Much of the budget is effectively fixed i.e. judicial salaries, maintaining the court estate. Where there is an element of flexibility the allocation of funds is determined in part by previous allocations, in part by caseload and in part by timeliness.

POLAND

The realisation of tasks faced by the judiciary department is the basic criterion. Detailed criteria are not defined rigidly. The volume of allocated funds practically depends on the number of full-time positions, both for judges

and the administrative personnel, the number of cases, necessities referring to the equipment, as well as the size of the court's building area.

PORTUGAL

No respons.

ROMANIA

Staff costs constitute about 80 percent of total expenditures, goods and services about 10 percent, and domestically financed capital expenditure only 3 percent. External grants and court-generated income (recovered fines, stamp fees, etc.) account for only 1–3 percent.

SERBIA

Draft financial plans of the courts, previous year's budget execution, the number of judges, the number of judicial staff, cases numbers, the network of courts, courts arrears etc.

REPUBLIC OF SLOVAKIA

The criteria are set by reasoned draft budget, which may determine the proposal of budgetary priorities of the courts. The funds must be used for the purpose for which they were intended by budget breakdown, the purpose of their use may be changed only by government.

SLOVENIA

There are no prescribed criteria

SPAIN

The criteria for allocation are: the previous budget and its performance. The number of judges, prosecutors and court administration staff, the number of cases, the current expenditures and investment required are always considered in funds allocations decisions.

3.4. Who sets these criteria? Is the judiciary involved on such issues? If so, how?

ALBANIA

Some of these criteria are set out in legal acts and regulations (number of employees and salaries). The rest are based on analysis, previous practices and general policies approved by the Board of Directors of ZABGJ.

BELGIUM

The Ministry – judiciary is not at all involved (attention: changes in the future –see above!)

BULGARIA

The Supreme Judicial Council approves the budgets of all the bodies of the judiciary and allocates the funds as appropriate and according to the needs of the judicial authorities. SJC provides instructions on the implementation of the budget and monitors their implementation.

CROATIA

Ministry of Finance.

DENMARK

The Court Administration set the criteria in the abovementioned models. The criteria has been discussed with the courts, and are approved by the board of Governors at the Court Administration.

ENGLAND AND WALES

At a national level, the HMCTS Board — on which there are three judges — will decide the various criteria by which budgetary allocations to the seven regions are to be made. That Board will decide the importance to be given to caseload and timeliness.

At the regional level, however, the decisions are effectively taken by the staff of HMCTS.

ESTONIA

Minister of Finance sets budgetary rules for the whole state budget. Minister of Justice in accordance with the Council for Administration of Courts can set additional rules for the budget of the 1st and 2nd instance courts.

FRANCE

The Ministry of Justice has set these criteria, but the Judiciary was officially involved in their definition.

GERMANY

The criteria are set by law and the ministry.

HUNGARY

The criteriums as regards the Courts budget are determined by the president of the NOJ. The judiciary plays role when the judicial councils deliver opinions on the annual draft budget of courts and on the use of the approved budget.

IRELAND

The approval for the budget rests with the Board which as indicated above is chaired by the Chief Justice and contains a majority of judges.

ITALY

I answered above.

LITHUANIA

The criteria for the distribution of budget allocations among courts are set by the Judicial Council's resolution. The criteria for salary issues are set by the laws adopted by the Parliament and the governmental resolutions: the salaries of the judges are regulated by the Law on the Salaries of Judges and the salary regulations for the court staff are the same as for all public servants.

MONTENEGRO

Above-mentioned criteria are set by the Finance Ministry. The judiciary is not involved in setting those criteria.

THE NETHERLANDS

It's written in law. The judiciary was involved in the making of this law.

NORWAY

The criteria's are set by the NCA. Nevertheless most of the budget is fixed one year to another, such as judges wages and household (the building are rent for years in advance).

The tribunals/courts are involved through their budget proposal to the NCA. In addition, there are developed a model which tries to explain the need of each court, in terms of labor. The model is developed with participation from the courts, and is used as a quality assurance when needs of labor are considered.

NORTHERN IRELAND

The NICTS Board.

Yes. If so, how? The judiciary is represented on the NICTS Board.

POLAND

The execution of the Common judiciary budget, as well as the management of the State Treasury assets and financial matters is the task of the Director of the Court of Appeal at the stage of the appeal area. Tasks and competences in this area are executed by him in the region by means of the Director of the Circuit Court subjected to him, and who supervises on the other hand the Financial Manager of the District Court (if appointed). The Director of the Circuit Court and the Financial Director of the District Court are court employees and this is why they are officially subjected to Presidents of the courts. However, as far as competences connected with the budget execution and the financial management is concerned, the Court Director in the Court of Appeal is directly subjected to the Minister of Justice. So the Director of the Circuit Court and the Financial Manager of the District Court (the lowest level) are thus indirectly subjected through the Director of the Court of Appeal to the Minister of Justice. The most important part of the employees' responsibilities is borne by them also before the Minister of Justice, who appoints them and dismisses them from their positions; the dismissal may take place at any moment, without any reasons specified and with the exclusion of the most important employees' claims). Although a dismissal of a director depends on the application of the President of the respective court, it can be said that the superiority of the President of the Court over the Director is limited, and practically speaking he depends on the decision of the Minister of Justice.

PORTUGAL

There are no criteria established for the allocation of funds. As said, while preparing the state budget project, the Minister of Justice listens to the Judicial High Council and the presidents of the superior courts about the needs. The pronouncement of the latter is non-binding. The budget forecast, which is based on previous years'

experience, takes into account, first of all, the fixed costs (such as wages and rents). The previous years' experience is also de main criteria for each court allocate his budget funds.

ROMANIA

The criteria is set following a well-established practice and the needs of the system that are established having in mind the budgetary proposals of the main, secondary and third spending authorities.

The workload of courts determines the spending on personnel goods and services. These criteria of the workload, is a keystone for the budgets of the courts and prosecutors' offices.

The Judiciary is involved in this process through the SCM, which analyses the workload and increases or reduces the personnel scheme.

SERBIA

The High Judicial Council and the Ministry of Justice. The courts are involved by giving their proposals of financial plans.

REPUBLIC OF SLOVAKIA

The criteria are set by the Ministry of Justice for courts except for the Supreme Court. The budget resources shall be allocated within the program budget module for each government-approved program.

Judiciary is represented within the budget negotiations by the Judicial Council of the Slovak Republic on the basis of the powers pursuant to the Constitution of the Slovak Republic as well as the Act on the Judicial Council. Under the authority of the Judicial Council of the Slovak republic in accordance with Art. 141a para 5 falls:

- to comment on a proposal for the budget of courts of the Slovak Republic during the preparation of the proposal for the state budget and
- to present opinion of the Judicial Council on the draft budget of courts to the National Council of the Slovak Republic;

Judicial Council's further authority pursuant to the Act on Judicial Council is to discuss reports on the drawing of budgetary funds of courts.

SLOVENIA

The Supreme Court decides on allocation.

SPAIN

The budget law approved by the Parliament sets the allocation criteria. The Judiciary is involved as presented above.

3.5.Which criteria would you consider are most important?

ALBANIA

All mentioned criteria are related to the courts functioning and are fully taken into consideration during the budget allocation process and none of them can be excluded or overestimated.

BELGIUM

No response.

BULGARIA

Legality and expediency of the expenses.

CROATIA

No knowledge.

DENMARK

Regarding salaries: The case dependant grant based on the expected (forecasted) activity of the court in question (this grant is used to pay the salaries of deputy judges and administrative staff)

Regarding other expenditures: The case dependent grant based on the expected (forecasted) activity of the court in question

ENGLAND AND WALES

The effective and efficient administration of the delivery of justice.

ESTONIA

Involving courts and Council for Administration of Courts from the planning of the strategy for the entire state budget.

FRANCE

Number of cases, length of procedure, number of judges.

GERMANY

Criteria to determine the staff requirements. In Germany figures statistically collected in each Land serve the calculation of personnel requirements for the justice administration pursuant to "PEBB§Y". Based upon workload an evaluation in accordance with uniform national base figures is undertaken. In the workload calculation these needs are then compared against the agencies and the average deployment of personnel. Judicial activities are depicted as products in the "PEBB§Y" framework. Each product has a specific base number set forth in minutes.

HUNGARY

The correct financing of the personell, with ensuring appropriate law frameworks (allowances)

IRELAND

The allocation of funding to support court sittings and services and access to justice is prioritised.

ITALY

No respons.

LITHUANIA

The most important criteria for the court budgets are set by the laws and are related to the salaries, because funds for the gross salaries (including the social insurance costs) constitute about 90 % of the total budgets of the courts. Other very important criteria are established by the Law on Courts. The Law on Courts provides that the NCA is responsible for investment projects for the courts (initiation, preparation and implementation), the NCA organizes and ensures centralized providing of goods, services and assets for the courts, also finances training for judges. That eliminates the need to distribute the allocations to every court's budget separately, helps to concentrate the qualified specialists in one institution (division), also the bigger amounts of goods, services and property of the same or similar type that are purchased in a centralized manner help to save time and funds. Moreover, NCA pays the pensions for judges, which is also set by law and is one of the guarantees of judicial independence.

MONTENEGRO

The most important criteria are the criteria of fiscal discipline and good planning.

THE NETHERLANDS

The two criteria mentioned.

NORWAY

The number of employees, and cases. The budget of last year is also an important factor. The reason that last years budget are regarded as important are mostly due to the fact that Norway has a number of small courts with low turnover in terms of employees, hence it is difficult to adapt to changes in the budget.

NORTHERN IRELAND

The effective and efficient administration of the delivery of justice

POLAND

The most important criterion should include the utilisation of objective criteria, including the number of full-time positions both of judges and those of the administrative personnel, the load with cases, the size of the court region, equipment needs, as well as the size of the area.

PORTUGAL

The budgets must be drawn in accordance with the needs of the courts, considering, inter alia:

The expenses for the salaries of the judges and the personnel;

The expenses with the buildings;

The expenses of the itinerant judges;

The complexity and the quantity of the cases allocated to each court.

ROMANIA

All the criteria is important. The budged is limited and it does not allow to easily change the chapters between them. The workload of the courts.....

SERBIA

The most important criteria is the proposal of the financial plan of the courts themselves.

REPUBLIC OF SLOVAKIA

The most important criteria are justified needs of individual courts. Those that are not reflected in the draft budget, applies Ministry of Justice as a priority to the draft budget. It is important to add, that proposals based on the needs of the courts have not been taken into account by the Ministry of Justice even in one single budget period.

SLOVENIA

The planned quantity of cases.

SPAIN

None of the above mentioned criteria are more important than others for the efficiency of the judiciary: the number of judges, prosecutors and court administration staff, the number of cases and the required current and investment expenditures.

3.6.What kind of problems have you experienced with misuse (if any) of these criteria?

ALBANIA

Budgets drafted by courts are analyzed in detail by experts of the Z.A.B.GJ and this practice has significantly limited possible deviations from standards. The Deviations that have resulted from monitoring and implementing the budget in courts are discussed during the analyses conducted by the Z.A.B.GJ and during the audit control by the Internal Audit Unit of Z.A.B.GJ.

BELGIUM

No response.

CROATIA

No knowledge.

DENMARK

No problem.

ENGLAND AND WALES

None have arisen so far.

ESTONIA

There have been problems with getting the courts and Council for the Administration of Courts involved in the process when all the main decisions have already been done (strategy for the entire budget is already approved and later it's difficult to make fundamental changes).

FRANCE

The risk is that courts which may face some difficulties, because of a very high workload of judges, numerous vacancies for judges, will receive less funds because of their bad results which may weaken them even more and make them less attractive for new judges to come.

GERMANY

Funds are not allocated in the way judges and prosecutors would think best if their demand does not match political criteria.

HUNGARY

Abuse of the criteriums didn't happen, but unfortunately the budget of courts does not cover the necessary personell and inflationary effects.

IRELAND

There have been no problems in relation to misuse of the criteria.

ITALY

No respons.

LITHUANIA

The main problem of using the criteria is the lack of financing, because the needs for allocations calculated according to the criteria are usually bigger than the proposed allocations, so, after using the criteria there is the decision to make what is a percentage of financing according to the criteria.

In addition, it should be mentioned that in cases when there are changes in laws which results in the additional functions assigned to courts, reforms which have impact on the judiciary, the financial aspect is not always adequately assessed. It raises some problems to courts which must implement the new functions without getting additional financing.

MONTENEGRO

No major problems were observed in this respect.

THE NETHERLANDS

Performance budgeting can result in low quality. So we designed quality standards.

NORWAY

We have no experience with misuse of these criteria.

NORTHERN IRELAND

None

POLAND

The most serious problem which arises as a result of not adjusting the amount of funds in the planned budgets of courts (incorrect application of the criteria) is that courts are understaffed – there is lack of employment opportunities for necessary court clerks and judges' assistants posts.

PORTUGAL

No respons.

ROMANIA

The law provides that the budget of the courts shall be managed by the High Court of Cassation and Justice. However this provision has been postponed in practice for several years.

The measures of the reform within the Judiciary are not correlated with the allocation the funds form the implementation of these measures.

SERBIA

There is no misuse of mentioned criteria.

REPUBLIC OF SLOVAKIA

There is no experience with the direct misuse of criteria. But the operation of the courts might be significantly influenced by the government's decision on budgetary commitments. As stated above, proposals based on the needs of the courts have not been taken into account by the Ministry of Justice even in one single budget period.

SLOVENIA

It is very difficult to plan, because the budgets of the courts includes also budget for the legal aid.

SPAIN

There have been no big problems in relation to misuse of the criteria.

3.7. What would you suggest as a good practice when using these criteria (Adapted to specific cases...?)

ALBANIA

To further improve the quality of the budget for the judiciary, it would be better to clearly determine the cost for each adjudicated case according to their specifics as civil, penal, and administrative. This would increase the quality of the process of budgeting and allocation to better address the courts activities needs.

BELGIUM

No respons.

CROATIA

No knowledge.

DENMARK

The models and criteria take into account the changes in caseflow and the expected (forecasted) activity in the individual courts.

ENGLAND AND WALES

The iterative process, which is implicit in the annual Concordat discussions, has by and large served HMCTS well. However, there is a school of thought favouring an arrangement whereby the Lord Chief Justice is able to discuss the budget of HMCTS direct with the Chancellor of the Exchequer. That might improve the present arrangements whereby those discussions are conducted between Lord Chief Justice and Lord Chancellor, the latter of whom then takes the discussion to the Chancellor of the Exchequer. Direct, rather than an indirect, dialogue might be more effective.

ESTONIA

Negotiation with courts and Council for Administration of Courts.

FRANCE

The criteria should be defined by the Judiciary. Funds should then be allocated regarding the efforts made by a court to be more innovative, to deal with the question of judges' vacancies or specific proceedings. Courts with bad results regarding these criteria should not be automatically allocated with less funds.

GERMANY

Due to the fact that there is a great variation within the budgeting systems of the judiciary in Germany the Federal Ministry of Justice and Consumer Protection is unable to provide an answer to this question.

HUNGARY

No respons.

IRELAND

No respons.

ITALY

The best criteria for the allocation of funds is to take account of objective factors (size of the offices, number of judges), as already highlighted.

There have been no problems in relation to misuse of the criteria.

LITHUANIA

No respons.

MONTENEGRO

Strengthening capacities of the internal finance revision departments in judiciary that would put forward adequate recommendations and guidelines for budget spending is a good practice in this respect

THE NETHERLANDS

No respons.

NORWAY

The Resource allocation model estimates the resources needed (judges and clerks) based on number of cases and characteristics of the different type of cases. It is however difficult to apply the information generated by this model since most of the costs are fixed (wages and household). The model can thus be used for long term decisions in terms of labour.

NORTHERN IRELAND

To have as an option a process whereby the Lord Chief Justice could make a direct approach to HM Treasury on budgetary issues if he considered it appropriate to do so.

POLAND

No respons.

PORTUGAL

There have been no problems in relation to misuse of the criteria.

ROMANIA

The allocation of the financial resources in accordance with the workload and the complexity of the files.

SERBIA

All criteria are essential for drawing up the budget of the courts.

REPUBLIC OF SLOVAKIA

When the new bill is introduced, the workload assessment for courts shall be considered as well:

Pursuant to the present legislation, a bill shall be presented in the exact legislative form and supported by an explanatory report which shall contain an evaluation of the current social, economic and legal background and explain the reasons why the new enactment is necessary, including also the method of its implementation, and its economic and financial impact, particularly the impact on the state budget, labour force and organizational structures, as well as an analysis of other issues relevant to the general evaluation of the bill.

In addition to the general part, we suggest as a good practice to add to every bill the workload assessment for courts, i.e. the impact on the judiciary either positive or negative shall be considered.

SLOVENIA

The budget for legal aid and experts (for example in family cases) should be allocated at the Ministry of Justice and not at the Courts.

SPAIN

Individual Court cost analysis on a yearly based evaluation is always a good practice to be improved.

4.CONSEQUENCES OF BUDGETARY CONSTRAINTS

4.1. At the national level

4.1.1.Have budgetary constraints resulted in legal reforms? Have they for instance resulted in development of ADR or in restricted access to an appel?

ALBANIA

Budgetary constraints for the judicial power have an impact on the courts working conditions, service and adjudication of cases. In our judgment the need for legal reform comes not only for budgetary reasons but there are a number of factors which dictate the need for these reforms.

BELGIUM

Up till now: no. A restricted acces to appeal will be consequence of new legal regulation. ADR has not visible increased.

BULGARIA

Budget constraints lead to optimization and reduction of the judicial employees. Measures were taken in terms of the reorganization of court with low workload.

CROATIA

No respons.

DENMARK

Two analyses aiming at finding better and leaner judicial service have resulted in specific new legislation i.e. right of appeal and that more cases now start at District Court level.

Regarding appeals there used to be a limitation in civil cases which meant that only cases that involved an amount higher than 10.000 Danish kroner could be appealed. This limit has recently been raised to 20.000 kr.

ADR is a special focus area at the Danish Courts at the moment. It has however not been introduced because of budgetary constraints.

ENGLAND AND WALES

Successive annual budgets of HMCTS have been severely affected by the post-2008 era of austerity with year-on-year reductions in the funding available to HMCTS. This has been felt most dramatically in the number of staff HMCTS has been able to employ. Reducing staff numbers has inevitably led to delays in the processing paperwork and in the sending out court orders, failures to maintain up-to-date court files, mistakes in the listing (i.e. scheduling) of cases and many other similar administrative failings.

There has also not been the necessary level of investment in recent years in the courts and tribunals estate, in information technology and in staff training. All of this inevitably impacts upon the working environment of the judiciary, on judicial morale and on the efficient and effective delivery of justice.

To help put HMCTS back on a financially sustainable future, a reform programme is presently being developed which has three elements namely:

- a consolidation of the court estate (i.e. fewer court buildings);
- a modernisation of the information technology; and
- changes to the working practices of both the judiciary and the HMCTS administration.

The reform programme is intended to enable justice to be delivered at a reduced cost. It will include features such as online dispute resolution, a greater use of alternative dispute resolution, electronic working and fewer face-to-face hearings.

There has not been, nor is there proposed to be, any increased restrictions on rights of appeal.

ESTONIA

The government has decided that due to macro-economical reasons (eg the shrinking of population, the ratio of public sector to private sector) all state branches and bodies are obliged to reduce their budgets and the number of staff 3% annually. New posts can be created only when some other posts are abolished. In the court the number of technical personnel in the registries (land registry, business registry etc) has decreased while the number of legal assistants to judges has increased.

FRANCE

For the last few years, ADR has been promoted as a way to reduce judges' workload. Recently, the highest Court, the Court de cassation has initiated wide debates on reform of the appeal process.

So far, in France appeal allows the plaintiff to introduce new evidences, this is a complete new trial. Some legal practitioners would prefer an appeal strictly limited to the first case. Such a reform would definitely reduce the amount spent at the appeal stage.

GERMANY

Legal reform is being discussed in private and criminal procedure.

HUNGARY

Legal reforms didn't eventuate budget curtailments. Overall, the budgets of the courts are increasing year by year but the titles which are meant to finance human resources are often neglected. Considerable improvement occurred in the investment framework. Only the rate of the duties changed in the past years, but this did not influenced substantially the opportunity of law enforcement.

IRELAND

Legal Reform is a matter for the Government. The budgetary constraints have resulted in increased development of ADR.

An example of such reform is as outlined above in relation to the Fines (Payment and Recovery) Act 2014 which seeks to introduce the payment of court-ordered fines by instalments in order to reduce the number of prison committals and the burden on the prison system.

ITALY

Measures have been taken with the legislative decree 7 September 2012, n. 155, entitled "New organization of the ordinary courts and prosecutorial offices", and of the legislative decree 7 September 2012, n. 156, entitled "Review of the judicial districts - Offices of the Justices of the Peace". The two measures in question has caused a major reorganization of the judicial districts, providing respectively the removal of 31 courts, 31 prosecutor offices, 220 sub-offices of the court, and 667 offices of justices of the peace. It is a far-reaching reform intervention, it will be very interesting to verify, in the coming years, if the statistical data on the slopes of the civil and criminal proceedings will record improvements. The above mentioned 2015 reform aims to reduce the waste of the funds management. It has concentrated the decision – making powers in the Ministry . These powers and expenditure belonged before to the Towns.

LITHUANIA

No. The drafts of the laws for the court reform were submitted to the Parliament, but that is not a result of budgetary constraints.

MONTENEGRO

In general, budgetary constraints did not affect legislative reforms in Montenegro. The constraints had neither affected ADR nor restricted access to appeal. However, space conditions in which judges are operating are poor and the large investments should be effectuated in this regard. Also, the development and maintenance of IT also require huge investments. Those investments will improve efficiency of justice but lack of them in any respect does not endanger human rights.

As a priority, access to the court might have affected with necessary infrastructure adjustments in order to facilitate access to the court of persons with disabilities.

THE NETHERLANDS

Yes. Court fees have been increased. The government budget for subsidized legal aid is diminished. The prosecution got more powers for resolving criminal cases without involvement of a judge.

NORWAY

No.

NORTHERN IRELAND

Some legal reforms are under consideration e.g. having Northern Ireland as a single jurisdiction however the focus is on administrative reforms and the NICTS is implementing a Modernisation Programme. Its main components are – Rationalisation of the Court Estate, Service Delivery Project, Court Funds reform (including a new IT system), Income Generation Project and Workforce Planning.

The Modernisation Programme should ensure that NICTS is structured and resourced to provide efficient and effective service delivery to court users in the face of challenging resource availability.

There are ongoing developments in relation to the promotion of ADR, though the main focus of this initiative is to improve access to justice rather than reducing costs.

Appeal provisions remain unchanged.

POLAND

First of all, it should be mentioned that the budget of common courts was reduced only once (in 2009) during the past few years, and it was at a minimal level anyway. Since 2009, budgetary expenses for the judiciary activities have been slowly, but gradually increasing (in total by 24.9% in the period 2009-2015).

Since 2005 there have been introduced legal solutions and actual and organisational actions to use alternative dispute resolution methods especially in certain categories of civil cases, in Poland, but the parties continue to be reluctant in availing of them, especially that, e.g. the application of mediation is not obligatory. An access to appeal possibilities has not been limited, which was affected by judgements of the Constitutional Tribunal and the Supreme Court.

PORTUGAL

Recent laws intend to encourage the arbitration as an alternative to court proceedings and introduce the judicialization of certain matters, mostly on civil.

The right to an appeal to the Supreme Justice Court has been reduced in civil matters.

The number of the applicants that are admitted for the initial training in each year has been successively reduced. Nowadays, the number of new judges is insufficient to fill the vacancies left by those who have retired or died. The same happens with the public process servers.

ROMANIA

Legal reforms were independent from budgetary constraints. No budgetary constraint should result in restricting access to justice in any form or in any procedural stage. Development of ADR procedures has indeed represented a measure of releasing courts' workload as a reformative measure and not as a consequence of the budgetary constraints.

The main result of the constraint was the cuts of the salaries and more workload for the courts and prosecution offices staff.

SERBIA

No.

REPUBLIC OF SLOVAKIA

Due to the lack of judges there have been few planned reforms which could help accelerate selected procedures (effort to accelerate / automate some procedures, or move some action from the courts to the other authorities (e.g. a proposal to move the administration of the business register from the courts to the district offices)

SLOVENIA

There was legal reform related to free legal aid in cases of personal bankruptcy, which doubled the costs of the courts and caused a lot of troubles.

SPAIN

Recent laws intend to improve arbitration and mediation alternative to court resolution of disputes. These resolution systems are high value for money and very appropriated in budgetary constraints times. Budgetary constraints for the judiciary always have an impact on the courts working conditions, especially in maintenance of buildings courts and in IT development.

4.2. At the court level?

4.2.1 Has it resulted in the prioritization of cases?

ALBANIA

No respons.

BELGIUM

There is a imminent danger that it will lead to considerable delays in handling cases.

CROATIA

No.

DENMARK

Budgetary constraints can cause a decrease in funds for salaries to for example deputy judges and administrative staff. This can over time have an impact on the overall case processing time.

ENGLAND AND WALES

Listing (the scheduling of cases) has always been a judicial function and the prioritisation of cases is ultimately for a judge to decide. Priority has always been given to criminal cases where the accused is in custody and to family cases where the issues relate to children.

Over the last few years there has been pressure on the number of sitting days which HMCTS has been able to finance. We have not sat the number of court days we would consider appropriate. Some criminal cases, especially where the accused is on bail rather than remanded into custody, are now taking considerably longer to be heard, with the judge therefore having to decide which of two competing cases is next heard.

ESTONIA

No.

FRANCE

Due to these budgetary constraints, each court has to prioritize cases. Family and criminal cases are usually preserved, contrary to construction litigation or litigation involving labour law.

GERMANY

It is for every judge to prioritize his/her cases. According to our understanding this is an important part of the judges' independence, which cannot be regulated by the court administration, not even the president himself/herself.

HUNGARY

The budget curtailments or any budget measure does not affect the case prioritization.

IRELAND

The scheduling of cases is a matter for the Presidents of the Courts and the presiding judge. Criminal cases, particularly where the defendant is in custody, and family law cases have traditionally been prioritised where there are judicial resource issues.

ITALY

It hasn't cases treated with priority.

LITHUANIA

No

MONTENEGRO

No respons.

THE NETHERLANDS

No. Government till now still has enough money to pay the resolving of all influx.

NORWAY

No.

NORTHERN IRELAND

No (however please see below).

POLAND

No respons.

PORTUGAL

In general, it hasn't.

Sometimes, by the force of circumstances, which is an inevitability.

ROMANIA

Budgetary constraints are reflected in the number of staff (judges, prosecutors, clerks) which is not adequate to the needs of justice.

SERBIA

No.

REPUBLIC OF SLOVAKIA

No.

SLOVENIA

No.

SPAIN

The Courts distribution procedure (regulated by law and Courts rules) is the only responsible for the prioritisation of the cases.

4.2.2. Does it affect judge's work? Choice of IT? Expert's appointment?

ALBANIA

Budgetary approved funds from the state budget for the judiciary have been guaranteed for each basic component which the daily activities of the courts are related, such as salaries for judges and administrative staff and operational costs.

Budget constraints have to do mainly with the investment funds requested for example for interventions in the infrastructure of courts buildings. In this regard, these constraints have not affected the prioritization of cases or the work of judges.

Lack of funds in investment has slowed down the achievement of the objectives to provide modern working conditions standards and service in the courts.

→ Is there a difference for allocating funds to the courts in the capital and the courts outside the capital?

No, there is no difference in the allocation of funds to the courts of the capital compared with other courts, with respect to their location.

BELGIUM

The restrictions on appointing judges and judicial staff affects the workload of the individual judges and the good functioning of the service.

BULGARIA

Magistrates and judicial employees work in poor material conditions.

CROATIA

No.

DENMARK

Only as regards to - potentially - not being able to meet set targets for case processing.

Other case related expenditures (mainly salary to lay judges and fees for witnesses) and legal aid are in all respects statutory.

ENGLAND AND WALES

The reduction in the HMCTS budget over the last seven years has led to a reduced number of staff being employed, a reduced expenditure on the maintenance of the court and tribunal estate and to delays in replacing antiquated information technology. Judges are very conscious that this has made the administration of the delivery of justice to be much less effective and efficient than is desired.

The appointment of experts is largely one for the parties themselves to manage; it does not usually fall on the court budget. Nevertheless, there have been difficulties in obtaining the appropriate level of expert in every type of case, not least because of the reduction that has been made over the last seven years to the legal aid budget. Because of the reduced level of remuneration now paid to experts, those instructed sometimes do not have the required level of expertise.

The effect on judicial morale cannot be ignored. Many years of pay restraint, changes to the judicial pension scheme and the reduction in the resourcing of HMCTS all have considerable impact on judicial morale at all levels of the judiciary.

ESTONIA

In recent years IT solutions have played a major part in functioning of courts. We are always looking ways to decrease the workload so that we can reduce the number of technical personnel. It has so far been possible in registries (land registry and business registry).

FRANCE

Judges and prosecutors are strongly incited to choose IT solutions which have fewer consequences on the court's budget. For instance, the choice of a hearing by videoconference, rather than bringing some one from a far away prison will allow a good evaluation of the court which may then receive more funds from the ministry of Justice.

GERMANY

The Federal Ministry of Justice and Consumer Protection is unable to provide information on this topic.

HUNGARY

The budget curtailments or any budget measure does not affect the work of the judges or the assign of experts.

IRELAND

The budgetary constraints have impacted on the supports provided to the judiciary and the courts particularly in relation to the development of IT systems and supports for the management of court business. The budgetary

constraints have also impacted negatively on the funding of other initiatives which could benefit the court process e.g. the provision of expert reports in family law cases.

ITALY

The constraints of funds assigned to the Justice have actually influenced the achievement of minimum performance standards and therefore also the organization of judges' work..

LITHUANIA

Yes, budgetary constraints in the form of a lack of financing or no financing for new equipment during the financial crisis had impact on the organizational and technical conditions of work for the judges and courts.

MONTENEGRO

Please see above. To some extent budget constrains results in choice of IT and usage of IT in the courts.

THE NETHERLANDS

Yes. Budgetary constraints resulted in higher workload for individual judges. There is a lot of working overtime.

NORWAY

No.

There are some consequences of budgetary constraints in terms of the choice of IT. The courts can be made much more efficient by applying new and already existing technology. In this regard the NCA has already existing projects, and has also planned new projects.

Budget constraints restrict when IT-project can start, and how fast they can be implemented.

NORTHERN IRELAND

There is pressure on resources on all fronts including upon the judiciary. For example the availability of fees to provide deputy cover.

The Lord Chief Justice recently commissioned a review of court sittings in the Magistrates' Courts to consider reducing costs by identifying sitting days per month that can be removed from the calendar. A wide-ranging

Review of Civil and Family Justice in Northern Ireland is also underway with a view to improving access to justice; achieving better outcomes for court users; creating a more responsive and proportionate system; and making better use of available resources, where a by-product should be an overall reduction in cost.

POLAND

An optimal utilisation of available means has been considered to be a critical element of the court management in conditions of important public finances limitations. As far as the personnel matters are concerned, the option entails, among others, the realisation of the policy of an elastic employment and remuneration, i.e, the creation of additional positions for judges, assistants, and court referendaries, but without increasing the remunerations fund.

As far as the financial aspect is concerned, there is promoted a wider and wider utilisation of modern management methods and tools that facilitate the process of taking decisions on the allocation of funds fr areas requiring an additional financing, without an excessive risk of causing disturbances in other areas of the court functioning, where savings are "generated". To this end, there is being launched the Integrated System of Accountancy and Personnel Management in subsequent courts. Thus there is being crated a complex system of monitoring and reporting financial, personnel, and statistical data for the needs of the judiciary management in connection with the changes under preparation in the field of the implementation of the cost account and a development of the task budget.

PORTUGAL

There are several delays in the preparation of the reports by the state services that support the court activity (like the social security and the resocialization and penitentiary services), because they have lack of technicians.

The lack of process officers is also cause of processual delays.
Some court buildings are inadequate or are degraded.

ROMANIA

Budgetary constraints usually have not affected judges' or prosecutors' activity. However, no new acquisitions were made and the equipment becomes old or inappropriate.

SERBIA

No.

REPUBLIC OF SLOVAKIA

Lack of judges generally affects speed of the court proceedings and lack of funding affects the equipment of individual courts.

SLOVENIA

Yes.

SPAIN

General economic restriction is connected with choice of IT and experts appointments and have impacted on the supports provided to the judiciary. Is part of the current and investment decrease of the budget in the last years.

From your involvement in the financing of your courts - whether it be negotiating the budget with your government, allocating the budget to individual courts or whatever - what one suggestion would you wish to make to other members of the network which you personally have considered most useful.

ALBANIA

No response.

BELGIUM

No response.

CROATIA

No knowledge because State Judicial has no role in the process of financing the courts

DENMARK

It is most valuable to have an allocation model based on case activity, and further more that this case activity are based on a weighting of cases compared to the personal resources used. It gives a unique overview of what a particular type of case costs.

ENGLAND AND WALES

Do not rely on formal structures; individual personalities are more important. Better results can be achieved by being able to develop a good working relationship with individuals compared to what is achievable through rigid constitutional structures. Every year, all those involved in the budgetary process have worked to avoid disagreements remaining unresolved by the time the Lord Chancellor and the Lord Chief Justice have their annual “Concordat” discussion. The only difficulty with that process, however, is that the discussions are between Lord Chancellor and Lord Chief Justice; consideration is being given as to whether it would be better for the Lord Chief Justice to discuss the HMCTS budget direct with the Chancellor of the Exchequer.

ESTONIA

As Estonian court administration system is quite unique it’s hard to make concrete suggestions to other countries.

FRANCE

Besides the involvement of the Judiciary in the budgetary process at each stage, from the definition to the allocation, the situation in France, where most of the courts do not have a sufficient budget to carry out all their assignments, would probably be more acceptable for legal practitioners and litigants if at the court level active consultation bodies were established.

GERMANY

No response.

HUNGARY

The fact that the budget of the courts is introduced to the parliament by the government without any modification, and even the application of the budget is in the hand of the president of the NOJ, is a guarantee of the judicial independence.

IRELAND

The funding for the Courts i.e. the third branch of Government should be provided directly by Parliament following negotiation by the Courts Service with the Departments of Finance or Public Expenditure and Reform. There should be no intermediary Department involved in the negotiation of the budget as is the case at present with the Department of Justice and Equality.

A Committee involving the Courts Service, the Department of Justice and Equality and the Office of the Attorney General was recently requested to report jointly to the Chief Justice and the Minister for Justice and Equality on a possible new model for funding the Courts Service. The Report was delivered to the Chief Justice and the Minister for Justice in late July 2015. Depending on the implementation, some of what is described in the above answers may change in the relatively near term.

ITALY

The High Council for the Judiciary, as constitutional body in charge of safeguard the independence and autonomy of the Judiciary, should be much more involved in the preparation and approval of the state budget.

LITHUANIA

To consider making adequate allocations for (centralized) payment for the forensic psychiatric and psychological expertise, requested by courts in non-contentious civil proceedings (i.e. in cases when such expertise is obligatory).

MONTENEGRO

No respons.

THE NETHERLANDS

1. Performance budgeting helps. It prevents that the budget decreases and the work remains the same.
2. Quality standards are necessary as countervailing power against the focus on quantity.
3. The prices of the cases are valid for a period of 3 years. Government can not cut down prices in this period when it has budgetary problems.

NORWAY

No respons.

NORTHERN IRELAND

The Lord Chief Justice continues to work closely with other key players in the administration of justice in Northern Ireland, on both formal and informal levels, to minimize the adverse impact of budget cuts and to deliver a high quality service to the public and other court users. It would be useful to have as an option a process whereby the Lord Chief Justice could make a direct approach to the HM Treasury on budgetary issues if he considered it appropriate to do so.

POLAND

In connection with the allocation of budget:

- Is there any difference in the allocation of funds for courts in the capital city and courts in other areas of the country?

The difference may result from a statistically confirmed necessity (e.g. the number of lodged cases), as well as the number of full-time positions in courts, and besides that, in some other cases, detailed functions fulfilled by some courts in the capital city - e.g., the 17th Department of the Circuit Court in Warsaw, which is also the Court for the Protection of the Competition and Consumers (the so-called Anti-Monopoly Court), or the Vetting Department, i.e., the Vetting Court, functioning within the Court of Appeals in Warsaw in the years 1997-2007. However, bearing in mind the number of the inhabitants of the capital city, there was also created a bigger number of district and circuit courts with more numbers of judges, although has not always meant a bigger number of the administrative personnel.

➤ Is there any special indicator relevant to the amount of considered cases? Is a major increase of court cases at the court automatically resulting in funding increase? (i.e. the body relevant to the budget is obliged to take into account the number of cases)

Formally speaking, there is no such an indicator, but when the courts draw up their financial plans, they take into consideration their caseload and needs connected with it. It does not mean, however, that the parliament will approve to this proposal; it is not obliged in any way.

PORTUGAL

In my opinion the judiciary should negotiate the budget directly with the parliament, without any interference of the Government.

And it should assume the responsibility for all that concerns it, like the buildings management.

That's the only way to ensure that the judiciary is totally independent from the executive. Otherwise, the judiciary must beg, every single year, its financing, being on the dependence of the executive good will.

ROMANIA

Having the experience of the implementation of four new codes, we would suggest to allocate the budgetary resources in accordance to the needs of the reform process, to the standards, taking into consideration of the need of training of judges and prosecutors.

SERBIA

Proposing the budget for the courts, distribution and management of funds for the work of the courts, should belong to the judicial authorities.

REPUBLIC OF SLOVAKIA

As written above, when the new bill is introduced, we suggest as a good practice that workload assessment for courts shall be considered as well, i.e. the impact on the judiciary either positive or negative shall be considered.

SLOVENIA

In Slovenia the Judicial Council is not independent budget user - the budget for the Judicial Council is included in the budget of the Supreme Court - these is not good because the Judicial Council is also a guardian of quality of the judiciary and it should be financially independent.

We would like to discuss: Is it good for the quality of work of the Supreme Court that the Supreme Court is burdened with the administration of the budget for the all the courts?

Is it good that Supreme Court is negotiating with the government about the budget?

1. Courts in the capital (differences between the capital and other districts) : Is there a difference for allocating funds to the courts in the capital and the courts outside the capital?

No.

2. Specific indicator relevant to the amount of cases: Is a major increase of court cases at the court (e.g. 30, 40% a year) automatically resulting in funding increase? (i.e. the body relevant to the budget is obliged to take into account the number of cases).

No.

SPAIN

No respons.

Response to Questionnaire on behalf of the Scottish Judiciary

Funding of the judiciary and independence of Justice

Karen Stewart, Policy Manager, Judicial Office for Scotland

Relevant Information is provided herein under the cross-headings set out in the questionnaire.

Please Note: The financial relationships between the UK Government and the Scottish Ministers are complex and set out in the [Statement of Funding Policy](#), the [Memorandum of Understanding and Supplementary Agreements](#) between the devolved administrations and the UK Government and the [Concordat](#) between HM Treasury and the Scottish Government. General information on budgets is provided hereafter but you may wish to refer to the documents specified for a detailed understanding.

- **Components of the budget financing the Judiciary**
- **Budgetary process**

The Scottish Government is responsible for implementing laws and policy on matters that are devolved to Scotland. Section 64 (1) of the Scotland Act 1998 makes provision for the Scottish Consolidated Fund (SCF) and the UK Parliament provides the Secretary of State for Scotland with the resources to pay into the SCF. The management of those resources falls thereafter to the Scottish Parliament and to the Scottish Ministers. The Scottish Government proposes how the Scottish budget is allocated through the Budget Bill, which it submits to the Scottish Parliament each year for approval.

The Scottish Government budget proposals are set out in chapters with Justice being one of areas covered by the Scottish Budget. Justice is made up of the following related portfolios:

- Community Justice Services
- Courts, Judiciary and Scottish Tribunals Service
- Criminal Injuries Compensation
- Legal Aid
- Scottish Police Authority (SPA)
- Scottish Fire and Rescue Service
- Police Central Government
- Safer and Stronger Communities
- Police and Fire Pensions
- Scottish Prison Service
- Miscellaneous
- Scottish Court Service

In many cases, there will be a public consultation process during the preparation of a Bill. This may involve the publication of a consultation document and/or detailed proposals. The latter may include a consultation draft of the Bill. The committee of the Parliament expected to consider the Bill when it is introduced may consider the proposals and take evidence from interested individuals and bodies. Further Information about the parliamentary process can be found on the [Scottish Parliament website](#).

➤ **Management of the allocated budget or Administration of the agreed budget**

Within the Justice Sector you will be interested in 2 specific areas:

- **Courts, Judiciary and Scottish Tribunals Service**

The allocation for the Courts and the Judiciary element of the Scottish budget mainly provides for the Scottish Government contribution to the superannuation costs of judicial office holders in Scotland. It also provides for the running costs of the Judicial Appointments Board for Scotland and the Court of the Lord Lyon, as well as salary costs for the Lord Lyon, the Lyon Clerk, the Auditor of the Court of Session and members of the Scottish Law Commission.

The Judicial Salaries budget is allocated from the Scottish Consolidated Fund to meet the salary costs of full time salaried judicial office holders in Scotland.

- **Scottish Courts & Tribunals Service**

The Scottish Courts and Tribunals Service (SCTS) is an independent, judicially-led, public body established by the Judiciary and Courts (Scotland) Act 2008. Its function is to provide administrative support to Scottish courts and tribunals and to the judiciary.

The composition of the SCTS Board is set in statute. Chaired by the Lord President, Scotland's most senior judge, its membership is drawn from those holding judicial office, members with a legal background and independent members from out with the justice system. Extracts from the relevant legislation are provided for your information in **Appendix 1**.

The Scottish Prisons Service is also funded under chapter 9 of the budget. The budget does not provide directly for Court security. This falls within the budgetary responsibilities of the Scottish Courts & Tribunals Service.

The Crown Office and Procurator Fiscal Service (COPFS) is the sole public prosecution authority in Scotland. It is funded under a separate specific portfolio of the Scottish Budget.

Remuneration of the judiciary is discussed previously.

The Judicial Council for Scotland is not a statutory body. It was established in 2007 by the Lord President of the Court of Session on an administrative basis. The purpose of the Council is to provide information and advice to the Lord President of the Court of Session and to the judiciary of Scotland on matters relevant to the administration of justice in Scotland. The Council has no financial powers and no role in court budgets. Administrative support to the Council is provided by Scottish Courts and Tribunals Service staff employed in the Judicial Office for Scotland.

Judicial salaries are set by the UK government at Westminster. The Review Body on Senior Salaries (SSRB) provides independent advice to the UK government on the pay of senior civil servants, the judiciary and other senior public offices. The Scottish Ministers are currently responsible for the administration of judicial salaries but Sections 16 and 124 of the Courts Reform (Scotland) Act 2014 makes provision to transfer this responsibility to the Scottish Courts and Tribunals Service. This is due to take place in April 2016. Further information on the work of SSRB can be found [here](#).

Information on court fees is provided in Appendix 2.

➤ **Consequences of budgetary constraints**

Information on a current portfolio of cross justice initiatives that will reform the operation of the justice system in Scotland is outlined in Appendix 3

Appendix 1

Excerpts from the Judiciary and Courts (Scotland) Act 2008

“Section 60 The Scottish Court Service

(1) There is established a body corporate to be known as the Scottish Court Service (referred to in this Part as “the SCS”).

(2) Schedule 3 makes further provision about the SCS.”

“Section 61 Administrative support for the Scottish courts and judiciary

(1) The SCS has the function of providing, or ensuring the provision of, the property, services, officers and other staff required for the purposes of—

(a) the Scottish courts, and

(b) the judiciary of those courts.

(2) In carrying out that function, the SCS must—

(a) take account, in particular, of the needs of members of the public and those involved in proceedings in the Scottish courts, and

(b) so far as practicable and appropriate, co-operate and co-ordinate activity with any other person having functions in relation to the administration of justice.

(3) In this Part, “the Scottish courts” has the meaning given by section 2(6).”

Excerpts from Schedule 3 The Scottish Courts Service

“Status of SCS

1 The SCS is the holder of an office, which office is also to be known as the Scottish Court Service.

Membership

2(1) The SCS consists of judicial members and non-judicial members.

(2) The judicial members comprise—

(a) the Lord President,

(b) the Lord Justice Clerk,

(c) one other person holding the office of judge of the Court of Session,

(d) one person holding the office of sheriff principal,

(e) two persons holding the office of sheriff, and

(f) one person holding the office of justice of the peace.

(3) The non-judicial members comprise—

(a) an advocate practising as such in Scotland,

- (b)a solicitor practising as such in Scotland,
- (c)the Chief Executive (appointed under paragraph 14(1)), and
- (d)three other individuals none of whom is qualified for appointment as a judicial member or for appointment under any of the preceding paragraphs.”

“Chairing of the SCS

- 9(1)The Lord President is to chair meetings of the SCS.
- (2)The Lord Justice Clerk may deputise for the Lord President in chairing meetings.
- (3)Where the Lord President and the Lord Justice Clerk are for any reason unable to attend a meeting the remaining members may elect a member to chair the meeting.”

“Committees

- 10(1)The SCS may establish committees.
- (2)A person who is not a member of the SCS may be appointed to be a member of any committee established by it.”

Excerpts from Court Reform Act 2014

“16Remuneration

- (1)Each sheriff principal and sheriff is to be paid such salary as the Treasury may determine.
- (2)Such salary is to be paid quarterly or otherwise in every year, as the Treasury may determine.
- (3)Each summary sheriff is to be paid such remuneration as the Scottish Ministers may determine.
- (4)The Scottish Ministers may determine different amounts of remuneration for—
 - (a)different summary sheriffs, or
 - (b)different descriptions of summary sheriff.
- (5)Each judicial officer mentioned in subsection (7) is to be paid such remuneration as the Scottish Ministers may determine.
- (6)The Scottish Ministers may determine different amounts of remuneration for—
 - (a)different judicial officers mentioned in subsection (7), or
 - (b)different descriptions of such judicial officers.
- (7)The judicial officers are—
 - (a)a part-time sheriff,
 - (b)a part-time summary sheriff,
 - (c)an individual appointed to act as a sheriff or summary sheriff under section 12(1).
- (8)Subsection (9) applies in relation to—
 - (a)a sheriff principal of a sheriffdom authorised under section 30 to perform the functions of a sheriff principal in another sheriffdom, and
 - (b)a sheriff of a sheriffdom (“sheriffdom A”) directed under section 31 to perform the functions of sheriff in another sheriffdom in addition to sheriffdom A.
- (9)The sheriff principal or sheriff is to be paid, in respect of the additional functions, such remuneration as appears to the Secretary of State, with the consent of the Treasury, to be reasonable in all the circumstances.
- (10)Subsection (11) applies in relation to a summary sheriff of a sheriffdom (“sheriffdom B”) directed under section 31 to perform the functions of a summary sheriff in another sheriffdom in addition to sheriffdom B.

(11)The summary sheriff is to be paid, in respect of the additional functions, such remuneration as appears to the Scottish Ministers to be reasonable in all the circumstances.

(12)Salaries and remuneration under subsections (1) to (11) are to be paid by the Scottish Courts and Tribunals Service.

(13)Sums required by the Scottish Courts and Tribunals Service for the payment of a salary under subsection (1) or remuneration under subsection (3) are charged on the Scottish Consolidated Fund.”

“124 Payment of salaries of Court of Session judges

(1)The salaries of judges of the Court of Session determined under section 9 of the Administration of Justice Act 1973 (judicial salaries) are to be paid by the Scottish Courts and Tribunals Service.

(2)Sums required by the Scottish Courts and Tribunals Service for the payment of such salaries are charged on the Scottish Consolidated Fund.”

Court Fees

Appendix 2

Court and Office of Public Guardian (OPG) users are required to pay fees as set out in Scottish Statutory Instruments (SSIs) made by Scottish Ministers and then laid in the Scottish Parliament.

These orders mainly relate to civil fees but there are also some fees charged for criminal procedure (miscellaneous administrative procedures).

Amendment orders are made to cover a three year period, setting out the fees for the coming 3 years - current fee amendment orders can be accessed on the SCTS [Court Fees](#) page.

The policy is to set court fees and fees for services at a level that recovers the full cost of providing services to users of the civil courts and Office of Public Guardian, taking into account agreed subsidies and exemptions.

Making Justice Work

Appendix 3

This portfolio of work programmes has been set up by the Scottish Government, and the Chief Executives of key justice delivery bodies, as a mechanism for collaboration across the justice system.

Its primary purpose is to assist in the delivery of a portfolio of cross justice initiatives that will reform the operation of the justice system in Scotland.

The overarching programme is described as follows:



For detailed information, please see the Scottish Government [website](#)

The Scottish Civil Courts Reform

The reform of the civil courts is a key commitment for the Scottish Government and the Scottish Courts and Tribunals Service has a lead role in helping to shape and implement those reforms. The following commentary, which you may find helpful, briefly outlines the origins of those reforms and current progress.

Origins of the Reforms

A judicially led review of the Civil Justice System was undertaken in 2007-2009 and the outcome was published in September 2009 as the "Report of the Scottish Civil Courts Review". In summary that review recommended:

- establishment of a Civil Justice Council for Scotland
- creation of a new tier of judiciary (summary sheriffs)
- establishment of a national Sheriff Appeal Court
- establishment of a national Personal Injury Court
- changes to the process for Judicial Review
- a shift of business from the Court of Session to the Sheriff Courts
- a raft of changes to civil court rules to support modernisation of civil court procedures.

For operational reasons the implementation of the changes that have been agreed by Parliament requires reasonable lead in times and the public will start to see the effect of the items covered in the Courts Reform (Scotland) Act 2014 in phased changes to court services over the coming years e.g.:

- April 2015 the SCS was renamed as the SCTS and took on the function of providing administrative support to the Tribunals
- September 2015 for the new Sheriff Appeal Court to start criminal appeals and, January, 2016 for civil appeals
- September 2015 for the new Personal Injury Court to start operations
- September 2015 for the new Judicial Review procedure to commence
- The recruitment of the first tranche of new summary sheriffs commenced in mid 2015.
- The new simple procedure will be developed and consulted on during 2015/16.

For more information see SCTS [website](#).